

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.14074 of 2020

M.Gurulakshman

... Petitioner

Vs.

1.The District Collector,
Erode District, Erode.

2.The Tahsildar,
Bhavani Taluk and Post,
Erode District.

3.The Commissioner,
Bhavani Municipality,
Bhavani, Erode District.

... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus directing the respondents to pass orders on the petitioner's representation dated 13.11.2019 which is pending before the respondents.

For Petitioner : Mr. P.Yuvaraj

For Respondents: Mr.E.Balamurugane, Spl. Govt. Pleader

सत्यमेव जयते
O R D E R

This Writ Petition has been filed for the issue of Writ of Mandamus directing the respondents to consider the representation made by the petitioner on 13.11.2019, wherein, the petitioner is seeking for issuance of patta in the name of Arulmighu Selva Vinayagar Thirukoil.

2.The case of the petitioner is that Survey No.774/2 (Old Survey No.869/13) 1(A) belonged to the Government in the year 1961. The Government had formed a Flood Relief Committee and 63 families were issued free house patta. The further case of the petitioner is that a Temple was also issued patta in the year 1964 and the petitioner is the 'Dharmakartha' of the above said Temple.

3. The further case of the petitioner is that all of a sudden, the patta was transferred in the name of the Government and it was recorded as a poramboke land without any notice to the Temple in the year 2010. The petitioner, therefore filed a suit in O.S.No.135 of 2011 before the Principal District Munsif Court, Bhavani seeking for the relief of declaration and for a mandatory injunction. This suit was decreed by judgment and decree dated 26.08.2013. According to the petitioner, this decree has become final and therefore a representation was made to the respondents to restore the patta in the name of the Temple as per the decree passed by the competent Civil Court. Since the representation was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

4. Mr. E.Balamurugane, learned Special Govt. Pleader appearing on behalf of the respondents, based on the written instructions received from the 3rd respondent, submitted that as against the judgment and decree passed in O.S.No.135 of 2011, an appeal has been filed before the Sub Court, Bhavani with delay and the same is pending in I.A.No.116 of 2016 and I.A.No.117 of 2017. The learned counsel submitted that the respondents are seriously prosecuting this appeal and till the disposal of the appeal, the patta cannot be transferred in the name of the Temple. The learned Special Govt. Pleader further submitted that the representation made by the petitioner on 13.11.2019 was rejected by the 3rd respondent by proceedings dated 23.12.2019. The learned counsel submitted that the petitioner wants to knock off the property in the guise of claiming a right for the Temple and therefore, the learned Special Govt. Pleader submitted that the present Writ Petition is liable to be dismissed.

5. The learned counsel for the petitioner submitted that the respondents are bound by the decree passed by the Civil Court. The learned counsel further submitted that the petitioner has not received any rejection order passed by the 3rd respondent. The learned counsel for the petitioner further submitted that the patta should be restored in the name of the Temple since the decree passed by the Civil Court is in force as on today and the same has not been set aside in the manner known to law. Therefore, the learned counsel urged that directions can be issued to the respondents to restore the patta in the name of the Temple.

6. In the considered view of this Court, the appeal filed by the respondents is pending at the condone delay stage before the Sub Court, Bhavani. The representation made by the petitioner on 13.11.2019 has also been rejected by the 3rd respondent by proceedings dated 23.12.2019. The petitioner will have to necessarily await for the orders of the Sub Court, Bhavani and only thereafter, the petitioner can proceed further to claim for the patta in the name of the Temple.

7. In view of the above, there shall be a direction to the Sub Court, Bhavani to take up the applications pending in I.A.No.116 of 2016 and I.A.No.117 of 2017 filed by the 3rd respondent and pass final orders. Depending upon the final orders passed by the Sub Court, Bhavani, the petitioner can workout his remedy in accordance with law. During the interregnum period, the entries made in the revenue records shall stand 'as it is'.

8.This Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

msr

To

- 1.The Sub Judge,
Sub Court of Bhavani.
- 2.The District Collector,
Erode District, Erode.
3. The Tahsildar,
Bhavani Taluk and Post,
Erode District.
- 4.The Commissioner,
Bhavani Municipality,
Bhavani, Erode District.

+1cc to Mr.P.Yuvaraj, Advocate, S.R.No. 37813
+1cc to the Government Pleader, S.R.No. 37940

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RSV(CO)
GN(18/01/2021)