

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.18875 of 2020
and WMP.No.23462 of 2020

N.Saravanan
Rep by Power Agent
T. Balaiya

...Petitioner

Vs.

1. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

2. The Revenue Divisional Officer,
Tambaram, Chengalpet District.

3. The Tahsildar,
Tambaram Taluk,
Chengalpet District.

4. Mr.G.Shiv Raj

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the first respondent to classify the land measuring an extent of 0.02.5 Hec., in Survey No.6/5B1, at Ganesh Nagar, in No.55, Kaspapuram Village, Tambaram Taluk, Chengalpet District as common passage in all the revenue records, as found in the FMB sketch and pursuant to the order of the first respondent, in Na.Ka.No.6294/12/No.3 dated 07.01.2016, by considering the petitioner's representation dated 17.10.2019 and reminder dated 07.10.2020 within a time frame and till such time, forbear the 4th respondent, his men, agents and whomsoever claiming under the 4th respondent, from any manner interfering with the peaceful usage of the common passage by the petitioner, which is commonly available in Survey No.6/5B1, measuring an extent of 0.02.5 Hec. Situated at Ganesh Nagar in No.55, Kaspapuram Village, Tambaram Taluk, Chengalpet District.

For Petitioner :M/s.Mc Gan Law Firm
For Respondents:Mr.S.N.Parthasarathy
Government Advocate

O R D E R

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the third respondent to classify the subject property as a common passage as per the Revenue Records and as per the orders passed by the first respondent dated 17.01.2016.

2. The case of the petitioner is that the land comprised in S.No.6/5 measuring an extent of 44 cents was subjected to the Estate Abolition proceedings and the concerned Tribunal passed an order dated 06.04.1971 by holding that one Mumoorthy was entitled only for 20 cents out of the total extent of 44 cents. The further case of the petitioner is that this land came to be sub-divided and the said Mumoorthy was allotted S.No.6/5A and the balance extent of 22 cents belonged to one Subramani who was allotted S.No.6/5B.

3. It is stated by the petitioner that the said Mumoorthy and his legal heirs disposed of the property in Survey No.6/5A. In spite of the same, they are said to have manipulated the revenue records and started interfering with the lands in S.No.6/5B. In the said property, there was layout that was formed and the plots were sold to various persons. One such plot was owned by the vendor of the petitioner.

4. The grievance of the petitioner is that the 4th respondent was relying upon the manipulated revenue records and the petitioner was attempting to cancel the entries and the dispute went before the first respondent. The first respondent by proceedings dated 07.01.2016 was pleased to set aside the patta standing in the name of Mumoorthy. In spite of this order, the third respondent did not take steps to restore and classify the relevant property as a common passage. The petitioner made a representation in this regard to the third respondent on 17.10.2019 and this was also followed up with subsequent representations. However, it did not evoke any response. Left with no other option, the present Writ Petition has been filed before this Court seeking for appropriate directions.

5. Heard the learned counsel for the petitioner and Mr.S.N.Parthasarathy, learned Government Advocate appearing on behalf of respondents 1 to 3.

6. Taking into consideration the facts and circumstances of the case and the limited relief sought for in this writ petition, there shall be a direction to the third respondent to consider the representation made by the petitioner on 17.10.2019 and call the petitioner and the 4th respondents for an enquiry.

The third respondent shall take into consideration the relevant documents and also the earlier orders passed by the first respondent on 07.01.2016 and shall pass final orders strictly in accordance with law within a period of six weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation before the third respondent along with all the relevant documents and also a copy of this order.

7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

2. The Revenue Divisional Officer,
Tambaram, Chengalpet District.

3. The Tahsildar,
Tambaram Taluk,
Chengalpet District.

+1 CC to M/s. MC Gan Law Firm, sr 41517
+1 CC to The Government Pleader sr 41309.

सत्यमेव जयते

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SP(08/01/2021)

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