

In the High Court of Judicature at Madras

Dated : 03.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.10320 of 2017 & WMP.No.11220 of 2017

Mahamuni

...Petitioner

Vs

1.The District Collector, Namakkal
District, Namakkal.

2.The Revenue Divisional Officer,
Namakkal, Namakkal District.

3.The Tahsildar, Senthamangalam
Taluk, Namakkal District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to issue patta to the petitioner's land in S.F.No.248 of an extent of 27 acres and 65 cents of land in N.Pudukottai village, Senthamangalam Taluk, Namakkal District within time frame.

For Petitioner :Mr.V.R.Annagandhi

For Respondents:Mr.G.B.Rajesh, GA

ORDER

I have heard Mr.V.R.Annagandhi, learned counsel for the petitioner and Mr.G.B.Rajesh, learned Government Advocate appearing for the respondents.

2. The petitioner seeks a direction to the respondents to grant patta in respect of the lands in S.F.No.248 of an extent of 27 acres and 65 cents of land in N.Pudukottai village, Senthamangalam Taluk, Namakkal District.

3. The case of the petitioner is that he purchased the property from one Mr.Srinivasa Reddiar by sale deed dated

24.5.1980 and has been in possession and enjoyment of the property ever since the date of purchase. During 2002, it appears that there was an interference by the official respondents when the petitioner attempted to fell the trees, which were standing in the land stating that the land is a Government land.

4. Hence, the petitioner approached the Principal District Munsif Court, Namakkal by filing O.S.No.449 of 2002. However, the said suit was dismissed by judgment and decree dated 06.7.2005. As against the said judgment and decree dated 06.7.2005, the petitioner preferred an appeal before the Sub-Court, Namakkal in A.S.No.135 of 2005, which was allowed by judgment and decree dated 16.4.2012.

5. It is the case of the petitioner that the said judgment and decree dated 16.4.2012 attained finality as the defendants in the said suit namely the respondents herein did not file any second appeal against the judgment and decree rendered by the First Appellate Court. Thereafter, the petitioner made a request for grant of patta. However, it was not considered by the third respondent. Hence, the petitioner made representations to the first respondent, who, in turn, directed the third respondent to take appropriate action on the application filed by the petitioner for grant of patta.

6. The petitioner would state that in spite of the direction issued by the first respondent, no action was initiated by the third respondent. Lastly, the petitioner submitted a representation dated 29.8.2016 to the first respondent, who, in turn, directed the District Revenue Officer, Namakkal to initiate action. The District Revenue Officer, Namakkal, in turn, by memo dated 10.12.2016, directed the third respondent to consider the request of the petitioner and intimate the decision taken to the petitioner and also inform the office of the District Revenue Officer, Namakkal. Even this communication also did not evoke any response. Therefore, the petitioner is before this Court by way of this writ petition seeking the aforementioned relief.

7. The learned counsel for the petitioner, after reiterating the factual matrix as set out above, has referred to the copy of A register and submitted that the land in S.F.No.248 has been shown to be a ryotwari punjai land and that the name of the petitioner's vendor - the said Mr.Srinivasa Reddiar finds a place in the revenue records. Therefore, it is submitted that the stand taken by the respondents that the property in question is a Government property is incorrect. It is further submitted

that before the civil court, an identical stand was taken by the respondents stating that the land is a Government land. However, the First Appellate Court rejected such a stand and decreed the suit as prayed for by judgment dated 16.4.2012 in A.S.No. 135 of 2005 thereby declaring the title of the petitioner to the suit property. It is also submitted that the respondents cannot refuse to grant patta to the petitioner.

8. In the considered view of this Court, it is too premature for this Court to issue a positive direction to the respondents to grant patta to the petitioner. Nevertheless, since the petitioner relies upon the decree dated 16.4.2012 passed in A.S.No.135 of 2005 on the file of the Sub-Court, Namakkal, which, according to the petitioner, attained finality, this Court is inclined to issue appropriate directions to the third respondent to consider the representation made by the petitioner for grant of patta.

9. In the light of the above, the writ petition is disposed of by directing the third respondent to consider the petitioner's representation dated 29.8.2016 on merits, take note of all the facts, ascertain as to whether any appeal has been filed against the judgment and decree dated 16.4.2012 in A.S.No.135 of 2005 on the file of the Sub-Court, Namakkal and pass orders in accordance with law. In order to facilitate the third respondent to promptly comply with this direction, the petitioner is directed to submit a fresh representation along with a copy of this order and a copy of the earlier representation, within a period of three weeks from the date of receipt of a copy of this order. On receipt of such representation, the third respondent is directed to comply with the above direction within a period of twelve weeks therefrom. No costs. Consequently, the connected WMP is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

RS

To

1.The District Collector,
Namakkal District, Namakkal.

2.The Revenue Divisional Officer,
Namakkal, Namakkal District.

3.The Tahsildar, Senthamangalam Taluk,
Namakkal District.

+lcc to Mr.V.R.AnnaGandhi, Advocate SR.1141
+lcc to the Governmnet Pleader SR.991

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BR(CO)
CB(03/02/2020)



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