



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2020

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.16943 of 2020

S.Appasamy

...Petitioner

-Vs-

1.The Tahsildar,
Kayathar Taluk,
Tuticorin District.

2.S.Thirupathy

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, to direct the first respondent to consider the objections dated 11.11.2020 filed by the petitioner and to pass order in his proceedings A2/415/2020, dated 03.11.2020 within a time frame as may be fixed by this Court.

For Petitioner	: Mr.P.Jessi Jeeva Priya
For R1	: Mr.M.Pandiya Rajan
	Additional Government Pleader

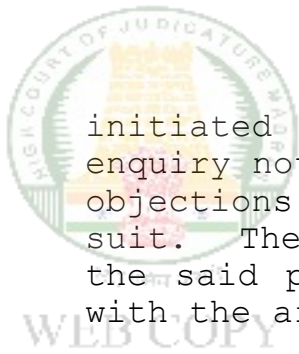
ORDER

This writ petition has been filed to direct the first respondent to consider the objections, dated 11.11.2020 filed by the petitioner and to pass order in his proceedings A2/415/2020, dated 03.11.2020 within a time frame as may be fixed by this Court.

2. Mr.M.Pandiya Rajan, learned Additional Government Pleader, accepts notice for the first respondent. Since no adverse order is going to be passed against the second respondent, notice to the second respondent is dispensed with.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. According to the petitioner, the land in Survey No.101/11 to an extent of 0.11.0 ares situated in Tuticorin District, Nagampatti Village, Kayathar Taluk assigned by the first respondent by his proceedings No.A2.9251/98 dated 03.12.1998, is belonged to the petitioner. When the Revenue Divisional Officer stayed the above said assignment, the petitioner approached the District Collector and obtained an order of confirmation of the assignment of land to the petitioner. While being so, the second respondent and the brothers of the petitioner interfered with the peaceful possession and enjoyment of the property. Hence, the petitioner preferred a suit in O.S.No.78 of 2018 on the file of the Principal District Court, Tuticorin. Pending suit, the first respondent



initiated proceedings in proceedings No.A2/415 /2020 and issued a enquiry notice to the petitioner. The petitioner also submitted his objections in the said proceedings without prejudice to the pending suit. Thereafter, the first respondent did not take any action on the said proceedings. Hence, the petitioner is before this Court with the aforesaid prayer.

5. The learned counsel for the petitioner reiterated all the contentions raised in the writ petition.

6. The learned Additional Government Pleader appearing for the first respondent would submit that the land assigned to other persons as that of the petitioner in that locality has already been cancelled. Since the petitioner has preferred a civil suit with respect to the property in question, the first respondent has not proceeded any further against the petitioner.

7. This Court has got a doubt as to how the suit filed by the petitioner is maintainable. That apart, the suit is for declaration. The judgment and decree passed or going to be passed, as the case may be, will not bind the Government as the Government is not made as party to the suit. Therefore, without reference to the suit, the first respondent is entitled to proceed further.

8. Accordingly, the first respondent is directed to pass orders in his proceedings No.A2/415/2020 on merits and in accordance with law after taking into consideration the objections submitted by the petitioner dated 11.11.2020 in response to the enquiry notice issued by the first respondent within a period of 120 days from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To
The Tahsildar,
Kayathar Taluk,
Tuticorin District.

WEB COPY

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-23305[F] dated 30/11/2020)

+1 CC to M/s.SPL GP (SR-23363[F] dated 30/11/2020)

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SS (CO)
KB (23.12.2020) 3P 4C