

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 24893 of 2018
and W.M.P. No.22464 of 2019

1.M.Nataraj
2.Nachammal
3.Padma
4.Saraswathi
5.Vasanthi
6.Nagarathinam

... Petitioners

Vs

1.The Special Tahsildar, (ADW)
Pollachi,
Pollachi Taluk,
Coimbatore District.

2.The Tahsildar,
Pollachi,
Pollachi Taluk,
Coimbatore District.

3.The Tahsildar,
Anamalai Taluk,
Coimbatore District.

.. Respondents

(R3 impleaded as per Court order dated 01.06.2020 in W.M.P.
No.22464 of 2019 in W.P. No.24893 of 2018)

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to carry out mutation, alter the Revenue Records and issue patta in the name of the petitioners in the light of order dated 03.02.2015 made in W.P. No.28723 of 2014 by considering representation dated 01.06.2011.

For Petitioners : Mr. R.Prabakar

For Respondents : Mrs. A.Madhumathi
Special Government Pleader

O R D E R

This Writ Petition has been filed for the issuance of Writ of Mandamus directing the respondents to carry out mutation, alter the Revenue Records and issue patta in the

name of the petitioners in the light of order dated 03.02.2015 made in W.P. No.28723 of 2014 by considering representation dated 01.06.2011.

2. It is unfortunate to notice that the petitioners, instead of filing contempt petition, have filed another Writ Petition for the same relief in tune with the order passed earlier in the Writ Petition in W.P. No.28723 of 2014. The petitioners own certain agricultural lands. It is stated that the lands were sought to be acquired by the respondents for the purpose of Harijan Welfare Scheme, during the year 1997. It is admitted that the Land Acquisition proceeding was challenged by the petitioners and that the same was quashed by order of this Court dated 08.03.2004 in W.P. No.4042 of 1997, filed by the petitioner's father. The Writ Appeal which was filed against the order in W.P. No.4042 of 1997 was also dismissed. Thereafter, the petitioners were constrained to file a Writ Petition in W.P. No.28723 of 2014 seeking direction to direct the respondents to alter the revenue records and issue patta in the name of the petitioners in respect of the lands which were originally sought to be acquired. The said Writ Petition filed by the petitioners was allowed by order dated 03.02.2015. The relevant paragraphs of the said order are as follows:

"...
4.The land in question viz. Survey No.104/3 was the subject matter of land acquisition proceedings. The petitioners challenged the same by filing Writ Petition before this Court in W.P. No.4042 of 1997. The said Writ Petition was allowed and the notification dated 10.01.1997, was quashed. However, liberty was granted to proceed afresh and in accordance with law. No further, proceedings were initiated by the respondents afresh so far. The Writ Appeal filed by the respondents is said to have been dismissed at the condone delay stage itself.

5.Though the petitioners are in possession now, on account of the fact that Revenue record shows that the land is a Government land the petitioners are directed to file a representation to make necessary corrections in the Revenue records and pass appropriate orders to ensure that the petitioners have absolute right over the property.

6.In the light of the above facts, the second respondent is directed to alter the revenue records and issue pattas in the name of the petitioners, in the light of the fact that acquisition proceedings have already been quashed and no further action has been taken by the Government to initiated further proceedings. Further more, the Writ Appeal filed against the

said order has also been dismissed and the land has not been utilised for any other public purpose for all these years. The above direction shall be complied with, within a period of four weeks from the date of receipt of a copy of this order."

It is to be noted that the respondents have not complied with the direction of this Court despite the order was passed six years back. Instead of filing a contempt petition, strangely, the petitioners have now filed the present Writ Petition seeking direction in tune with the order that was passed in W.P. No.28723 of 2014 filed by the petitioners.

3. Though this Court is convinced that the respondents have committed contempt by wilful disobedience of the order of this Court dated 03.02.2015, in order to render justice, this Court requested the learned Special Government Pleader to put on notice the Tahsildar concerned so that the Tahsildar may pass order in tune with the direction of this Court in W.P. No.28723 of 2014. During the pendency of the Writ Petition, it is represented that the village in which the petitioner's land is situated has come within the jurisdiction of the third respondent who was not originally impleaded as a party. Based on the change of jurisdiction, the third respondent was impleaded in the Writ Petition. However, the attitude of the respondents 2 and 3 is not good as gathered from the representation of the learned Special Government Pleader. It is stated that the third respondent is unable to comply with the direction of this Court since the first respondent is not co-operating for effective mutation. When the acquisition proceeding is quashed by the order of this Court, the excuse of the respondents 2 and 3 that they have to get proper communication from the first respondent or any one from Adi Dravidar Welfare Department is not acceptable.

4. Since the direction of this Court in W.P. No.28723 of 2014 dated 03.02.2015, is unambiguous and the contentions of the respondents 2 and 3 cannot be countenanced, this Court is of the view that the respondents 2 and 3 have committed contempt by wilful disobedience of the direction of this Court. Having regard to their official position and the given circumstance, this Court is not interested in prosecuting the respondents for committing contempt. However, the petitioners' prayer in the Writ Petition has to be allowed even though a further direction is not necessary in the light of the earlier direction of this Court in W.P. No.28723 of 2014. The respondents 2 and 3 or whoever is authorised to effect mutation in revenue records shall carry out necessary mutation in the revenue records by restoring the patta in the name of the petitioners in the light of the order dated 03.02.2015 passed in W.P. No.28723 of 2014 within a period of one week from the date of receipt of a copy of this order.

5. This Writ Petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn

To

1.The Special Tahsildar,
Pollachi,
Pollachi Taluk,
Coimbatore District.

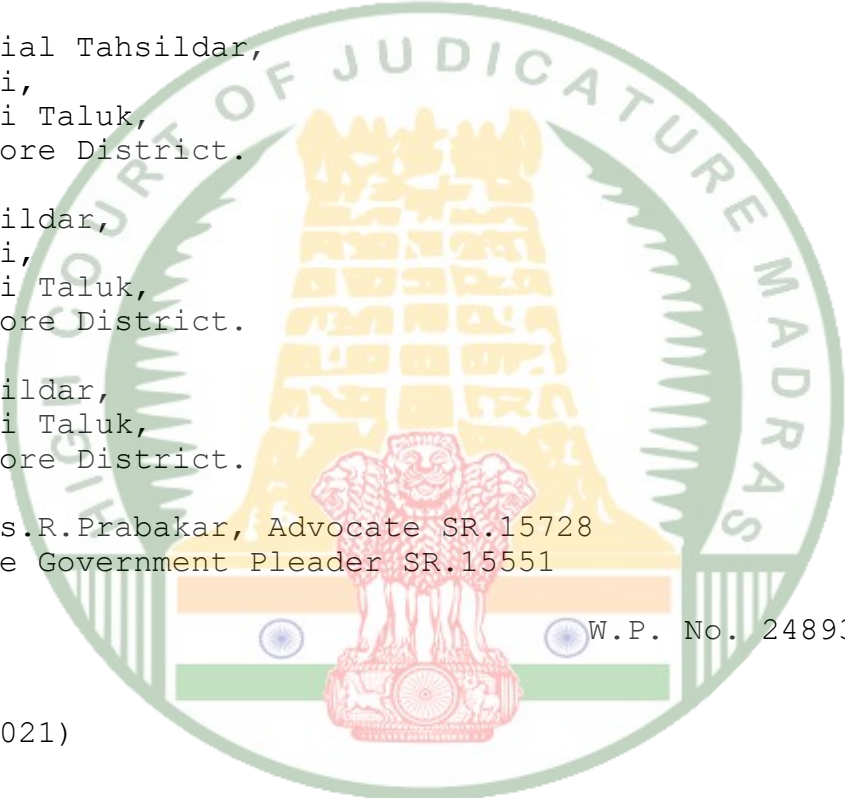
2.The Tahsildar,
Pollachi,
Pollachi Taluk,
Coimbatore District.

3.The Tahsildar,
Anamalai Taluk,
Coimbatore District.

+1cc to M/s.R.Prabakar, Advocate SR.15728
+1cc to the Government Pleader SR.15551

W.P. No. 24893 of 2018

PL(CO)
CB(31/03/2021)



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