

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 24494 of 2017
and
W.M.P. No. 29469 of 2018

T.Vetrivelan ... Petitioner

-vs-

1. The District Collector
Salem District,
Salem.

2. The District Revenue Officer
Salem District,
Salem.

3. Paravathy ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 and 2 herein to consider and pass orders on the representation dated 26.08.2017 made for taking action against the third respondent herein for the violation of the order, dated 14.07.2017 by the second respondent herein and to hand over possession of the land comprised in Survey No.91/5, Dadagaapati village, Salem Taluk, Salem District, measuring to an extent of 878 Sq.ft., within a time frame.

For Petitioner :Mr.R.Kamaraj

For Respondents :Mr.J.Pothiraj
Spl GP for R1 and R2

Mr.M.R.Jothimanian for R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the respondents 1 and 3 herein to consider and pass orders on the representation dated 26.08.2017 made for taking action against the third respondent herein for the violation of

the order, dated 14.07.2017 by the second respondent herein and to hand over possession of the land comprised in Survey No.91/5, Dadagaapati village, Salem Taluk, Salem District, measuring to an extent of 878 Sq.ft., within a time frame.

2. The case of the petitioner is that, the land at S.No.91/5, Dadagaapati vilage, Salem Taluk, Salem District, measuring to an extent of 878 sq.ft claimed to have been purchased by the petitioner by a valid sale deed dated 15.09.2011 registered as Document No.6251 of 2001 on the file of the Sub Registrar, Dadagaapati.

3. Since then, the petitioner claimed to have been in possession and enjoyment of the same and when he performed Boomi Pooja for making a construction, the third respondent made an attempt to prevent the same and she in fact claimed that, the land in question is a public land, where there is a public well is located, therefore, the petitioner should not make any construction.

4. In view of the said objection made by the third respondent and she in fact, according to the petitioner, had tried to make a fence of the land in question, the petitioner seems to have given representations to the second respondent on 16.08.2016, 09.09.2016, 22.09.2016 and 03.10.2016.

5. The said representations of the petitioner was enquired by the second respondent, who, after enquiry, had passed an order on 06.10.2016 holding that, there is no public well in the land in question.

6. Aggrieved over the said order passed by the second respondent, the third respondent preferred appeal to the first respondent and on 03.02.2017 enquiry said to have been conducted by the first respondent office on the said appeal filed by the third respondent and after considering the appeal, it seems that, the first respondent, by order dated 14.07.2017 directed both petitioner as well as the third respondent not to further precipitate the matter by trying to enjoy the property or making any construction till a final decision is taken in the appeal by the first respondent.

7. However, according to the petitioner, in violation of the said order passed by the first respondent dated 14.07.2017, the third respondent continued to make an attempt to violate the order by putting up the construction. Therefore, in order to prevent the third respondent from making any construction till the decision is taken by the first respondent in the appeal, the petitioner had given a representation to the respondents on

26.08.2017 and the said representation since has not been considered and no orders have been passed by the respondents, especially the first respondent, the petitioner has approached this Court by filing the present Writ Petition.

8. Heard, Mr.G.Thamizharasu, learned counsel appearing for the petitioner who has reiterated the aforesaid facts and seeks indulgence of this Court to issue a suitable direction in this regard.

9. Heard, Mr.J.Pothiraj, learned Special Government Pleader appearing for the official respondents. who would submit that, if at all, the first respondent has not decided the appeal filed by the third respondent as claimed by the petitioner so far, certainly that appeal would be decided along with the representation submitted by the petitioner dated 26.08.2017, of course after giving a reasonable opportunity of hearing to both the parties within a time frame that may be stipulated by this Court.

10. Heard, Mr.M.R.Jothimaniyan, learned counsel appearing for the third respondent, who would submit that, the land in question does not belong to the petitioner and it is a public land, where there is a public well available which can be put in use for general public, therefore, on that ground only, objection had been made by the third respondent on behalf of the general public, therefore, that issue has to be gone in to by the first respondent in the appeal filed by the third respondent. In this regard, if at all, the petitioner has given any representation, the same can also be considered along with the appeal of the third respondent by the first respondent within a time frame after hearing both the petitioner as well as the third respondent and accordingly, a decision can be taken.

11. I have considered the submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

12. In view of the aforesaid controversy with regard to the land in question, since there has already been an appeal filed by the third respondent pending before the first respondent along with the same, the representation of the petitioner dated 26.08.2017 can also be considered and a combined consideration can be shown by the first respondent both in the appeal as well as in the representation and in this regard, after affording opportunity of being heard to both the petitioner as well the third respondent, a final decision can be taken within a period of three months from the date of receipt of a copy of this order.

13. Depending upon the outcome of the decision to be taken by the first respondent, the parties can workout their remedy.

14. With these observation and directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vji / tsvn
To

1. The District Collector,
Salem District, Salem.
2. The District Revenue Officer,
Salem District, Salem.

+1cc to Mr.M.R.Jothimanian, Advocate Sr.24631
+1cc to Mr.R.Kamaraj, Advocate Sr.24633
+1cc to the Government Pleader Sr.25023

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