



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 23.02.2021

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THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.3415 of 2021

and

W.M.P.(MD)No.2771 of 2021

Lieutenant Colonel Ganesan S (Retd)

... Petitioner

-vs-

1.The DRO, Virudhunagar.

2.The Tahsildar, Kariyapatti.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to consider and dispose petitioner's representation dated 30.12.2020 with regard to passing orders afresh in the case pertaining to Survey No.67/2A1 in the light of suppression of facts and violation of principles of natural justice, within the time frame to be stipulated by this Court.

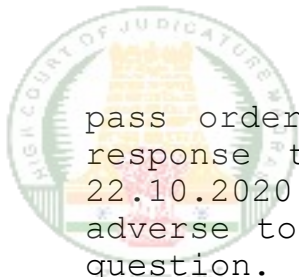
For Petitioner : Mr.J.Balasubramanian

For Respondents : Mr.M.Thilagar,
Government Advocate

ORDER

The case of the petitioner is that he had purchased a land in Survey No.67/2A1 situated in Mustakrichi Village, Virudhunagar District vide registered sale deed in Document No.88 of 2015 of Sub Registrar Office, Kariyapatti. There were certain fraudulent documents registered in respect of the property. However, the patta was granted in favour of the petitioner in patta No.1099 on 24.02.2015. The petitioner has been in enjoyment and possession without any interference. Ever since from the date of purchase of the property, he has been paying taxes also regularly.

2.According to the petitioner, a suit was also filed in O.S.No.152 of 2018 preventing the third party from claiming any right to the property. According to the petitioner, a Writ Petition was filed before this Court in W.P.(MD)No.9252 of 2020 and this Court has disposed of the Writ Petition directing the authorities to



pass orders on the representation of the petitioner therein. In response to the same, the first respondent passed an order on 22.10.2020 without giving any opportunity to the petitioner and adverse to the title interest of the petitioner to the property in question. In the above circumstances, the petitioner is before this Court seeking issue of Writ of Mandamus to consider his representation by giving him an opportunity to him.

3.This Court is not inclined to entertain this Writ Petition for the simple reason that if the order is passed by the District Revenue Officer without giving opportunity to the petitioner, it is always open to him to assail the order on the ground of violation of principles of natural justice. The petitioner cannot approach this Court and seek issue of Writ of Mandamus compelling the District Revenue Officer to rehear the matter. Number of reasons have been stated by the petitioner as to how the impugned order of District Revenue Officer was illegal and unjust. However, without putting the order to challenge, a mere mandamus Writ Petition cannot be maintained by the petitioner under any circumstances.

4.This Court is of the considered view that with reference to several facts stated in the affidavit and the transactions related to the property in question, two courses of remedies are open to him. The petitioner can either challenge the order by filing a proper Writ Petition or he can approach the Civil Court against the order of the District Revenue Officer to work out his remedies. Even challenging the order of the District Revenue Officer in a Writ proceedings is not an option which can be resorted to as a matter of routine but only in exceptional and in extraordinary circumstances, this Court finds there is a patent illegality in the order, such a writ petition could be entertained. Otherwise the normal remedy to the petitioner is to approach the Civil Court in order to settle the *lis* between him and the other parties. In any case, a Writ of Mandamus would certainly not lie in the circumstances of the case.

5.For the above reasons, this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM



To

1.The DRO, Virudhunagar.

2.The Tahsildar, Kariyapatti.

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-6913[F] dated 24/02/2021)

Order made in
W.P. (MD) No.3415 of 2021 and
W.M.P. (MD) No.2771 of 2021
23.02.2021

SMV (CO)

SRS (17/03/2021) 3P : 4C