



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

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THE HONOURABLE Mr. JUSTICE M.DHANDAPANI

WP. No.33372 of 2013

and

M.P. No.1 of 2013

K.Nagappan

...Petitioner

Vs.

1. The District Collector,
Erode District, Erode.

2. The Thasildar,
Perundurai Taluk,
Erode District.

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioners property measuring to an extent of 1.65.0 hectare (4.08 acre) comprised in old S.F.No. 612 a. (new RS.No. 361/2) and measuring to an extent of 0.75.0 hectare (1.84 acre) comprised in old s.f. 612 b1 (new RS.no 361/3) in Karumandichellipalayam village, Perundurai Taluk, Erode district.

For Petitioner : Mr.A.S.Kaizer

For Respondents : Mr.T.Chezhiyan

Additional Government Pleader

ORDER

The writ petition is filed to issue a Writ of Mandamus forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioner property measuring an extent of 1.65.0 hectare (4.08 acre) comprised in old S.F.No. 612 A (new R.S.No.361/2) and measuring an extent of 0.75.0 hectare (1.84 acre) comprised in old S.F. No.612 B1 (new R.S.No 361/3) in Karumandichellipalayam village, Perundurai Taluk, Erode district.



2. The case of the petitioner is that he is the absolute owner of the property measuring to an extent of 1.65.0 (4.08 acre) hectare comprised in Old.S.No.612 A, (New RS.No.361/2) and measuring an extent of 0.75.0 hectare (1.84 acre) comprised in old S.F.No.612 B1 (New RS.No.361/3) in Karumandichellipalayam Village, Perundurai Taluk, Erode District. The petitioner purchased the aforesaid property under two registered sale deeds dated 30.12.1987. From the date of purchase, the petitioner is in continuous possession in the above said property. During the year 1996, the Tahsildar, Perundurai had made an entry in the revenue records that the above said property is an assessed waste in its reference Na.Ka.No.2304/93/A2, for which the petitioner filed a suit in O.S.No.207/1997 before the District Munsif cum Judicial Magistrate, Perundurai seeking for a declaration that the entries made by the second respondent that the suit property is an assessed waste is not valid. The said suit was decreed on 06.11.1998 as prayed for by the petitioner. During the year 2013, the respondents surveyed the petitioner's land which was not informed to the petitioner. Hence, the petitioner sent a legal notice dated 03.03.2013 to the respondents calling upon them not to interfere with the petitioner's possession and enjoyment of the said property. Till date, since there is no response from the respondents, the petitioner has filed the present writ petition before this Court with the aforesaid prayer.

3. The learned counsel for the petitioner submitted that the Tahsildar has mentioned the petitioners land in the revenue record as assessed waste. The second respondent has no power to create such record to convert the agricultural land as an assessed waste. However, even after the decree passed by the trial Court, the respondents have not changed any entry in the revenue records in respect of the petitioner's property. Hence, the learned counsel prays to allow the writ petition.

4. On behalf of the respondents, the second respondent filed a counter affidavit. The respondents have denied the contention raised by the petitioner and as per revenue records, the disputed lands were conditionally assigned to Ponnaiyan, Dhanasundaram and Sundaram under the category of Scheduled caste. This assignment is a conditional assignment and therefore, the said land should not be sold to any other person before completion of 10 years. Even after the completion of 10 years, the lands should not be sold to persons other than those belonging to scheduled caste. The learned counsel further



submitted that initially, the suit filed by the petitioner has been allowed as an ex parte order. Thereafter, the said suit was restored and got adjournment for filing written statement. As the suit is pending for consideration, there is no merit in the writ petition and hence, the same has to be dismissed.

5. Heard, the learned counsel for the petitioner, as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. The facts of the case are not in dispute. The petitioner has purchased the aforesaid properties and he is in continuous possession and enjoyments of the properties from the date of purchase. But subsequently, the respondents disturbed the possession. In the meanwhile, the respondents have mentioned in the said lands as assessed waste in the revenue records. In the counter, the respondents have clearly mentioned that the disputed land is a conditional assignment land and therefore, the said land should not be sold to any other person before completion of 10 years. Even after completion of 10 years, the lands should not be sold to persons other than those belonging to scheduled caste and the petitioner is not belonging to the said community.

7. Considering the facts and circumstances of the case, this Court directs the respondents to conduct enquiry, after issuing notice to the parties concerned and affording an opportunity of personal hearing and take necessary action in this regard and pass appropriate orders as per revenue standing orders with due process of law as early as possible.

8. With the above direction, this writ petition is disposed of. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Erode District, Erode.

2. The Thasildar,
Perundurai Taluk,
Erode District.

+1 CC to Mr.A.S.Kaizer, Advocate sr 14729
+1 CC to The Government Pleader sr 14587

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BS (CO)
SP(08/04/2022)