



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN

W.P.No.11979 of 2022

and

WMP.No.11402 of 2022

S.Samiappan

... Petitioner

-Vs-

1.The District Collector,
Erode District.

2.The District Revenue Officer,
Erode District, Erode.

3.The Revenue Divisional Officer,
Erode District, Erode.

4.The Tahsildar,
Perundurai Taluk,
Erode District.

5.The Deputy Superintendent of Police,
Gobichettipalayam,
Erode District.

6.The Inspector of Police,
Thingalur Police Station,
Erode District.

7.A.Periyasami

8.Masiriyammal

9.Chinnamarakkal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent pass orders on the appeal in pursuance of the enquiry conducted on 28.10.2021 vide proceedings dated 11.10.2021 in Na.Ka.11998/2021/U4 within a stipulated time.



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For Petitioner : Mr.C.S.Saravanan
For Respondents : Mr.V.Manohar
Additional Government Pleader
for R1 to R6

ORDER

The petitioner has come up with this writ petition seeking to issue a Mandamus directing the second respondent to pass orders on the appeal in pursuance of the enquiry conducted on 28.10.2021 vide proceedings dated 11.10.2021 in Na.Ka.11998/2021/U4 within a stipulated time.

2. According to the petitioner, he is in possession and enjoyment of the property comprised in Survey No.264/3 and 264/7 at Singanallur Village, Perundurai Taluk, Erode District as absolute owner. It is stated that there is a common cart track situate on the western side of the petitioner's property and the same has been used by the petitioner and his vendors from the time immemorial. Whiles, the private respondents, who are the adjacent land owners of the petitioner's property, claiming right over the said cart track, filed a suit in O.S.No.51 of 2015 before the District Munsif Court, Perundurai for bare injunction and the same was decreed against the petitioner. Aggrieved by the same, the petitioner filed appeal before the Subordinate Judge, Perundurai and the same is still pending. In the meantime, the private respondents have obtained Patta in respect of the land in S.No.263/6, hence the petitioner made an application seeking cancellation of patta before the fourth respondent and the same was dismissed. Therefore, the petitioner preferred an appeal before the first respondent on 08.05.2021 and the ^{2nd} respondent who is the competent authority, issued a notice for enquiry on 11.10.2021 fixing the date for enquiry on 28.10.2021. The petitioner appeared before the second respondent for enquiry and produced all the documents, but the second respondent is yet to pass final orders.

3. It is the grievance of the petitioner that now the private respondents are trying to put up the fencing over the common cart track notwithstanding the pendency of appeal before the second respondent. Hence, this writ petition.

4. Heard both sides and perused the materials available on record.

5. Considering the facts and circumstances of the case, more particularly that the petitioner preferred an appeal on



08.05.2021 as against the issuance of patta to the private respondents and the same is pending, this Court directs the second respondent to dispose of the said appeal preferred by the petitioner on 08.05.2021 and pass appropriate orders, on merits and in accordance with law, after affording reasonable opportunity to the petitioner as well as to the private respondents 7 to 9, within a period of six weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Vacation Officer

True Copy//

Sub Assistant Registrar

kmi/msr

To

1.The District Collector,
Erode District.

2.The District Revenue Officer,
Erode District, Erode.

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Erode District.

5.The Deputy Superintendent of Police,
Gobichettipalayam,
Erode District.

6.The Inspector of Police,
Thingalur Police Station,
Erode District.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.31225

+1cc to the Government Pleader, S.R.No.31289

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JPL[co]
NSK/20/05/2022