



W.P.No.43194 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.43194 of 2016

and

W.M.P.Nos.37027 and 37026 of 2016

Mathappan

... Petitioner

VS.

1. The District Collector,
Erode District,
Erode.

2. The Tahsildar,
Bhavani Taluk Office,
Bhavani Taluk,
Erode District.

3. S.Thangavel

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records which relates to the impugned order dated 31.12.2015 bearing Ref.No.Ka.14890/2015/A7 passed by the second respondent and quash the same and consequently direct the 1st and 2nd respondents to issue patta to the petitioner's house comprised in R.S.No.611/32 classified as “Gramanatham”



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admeasuring 100 Sq.mtrs (1076 sq.ft. or 2.47 cents) situated at No.25/1, Nadu Theru, Nagireddipalayam, Olagadam Village, Bhavani Taluk, Erode District.

For Petitioner : Mr.S.Premkumar

For R1 and R2 : Mr.Bharanidharan
Additional Government Pleader

For R3 : Mr.E.P.Senniyangiri

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 31.12.2015 bearing Ref.No.Ka.14890/2015/A7 passed by the second respondent and consequently direct the 1st and 2nd respondents to issue patta to the petitioner's house comprised in R.S.No.611/32 classified as “Gramanatham” admeasuring 100 Sq.mtrs (1076 sq.ft. or 2.47 cents) situated at No.25/1, Nadu Theru, Nagireddipalayam, Olagadam Village, Bhavani Taluk, Erode District.

2. The case of the petitioner is that he is in possession and enjoyment of the house plot comprised in R.S.No.611/32, classified as “Gramanatham”



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situated at No.25/1, Nadu Theru, Nagireddipalayam, Olagadam Village, BhavaniTaluk, Erode District by putting up a hut and lived along with his family members for three decades. While that being so, the third respondent being a neighbour, owning a plot comprised in R.S.No.611/23 and constructed a house and also obtained patta from the second respondent, adjacent to which, there is another vacant land for which the third respondent is claiming right over the said vacant land. The third respondent made an application dated 15.10.2015 before the second respondent as if the petitioner had encroached the pathway comprised in R.S.No.611/32, pursuant to which the impugned order dated 31.12.2015 was passed restraining the petitioner from using his front yard terming it as encroachment. Thereafter, the petitioner's wife made a representation dated 31.10.2016 before the first respondent, seeking to issue patta in respect of R.S.No.611/32 and the same was forwarded to the second respondent vide communication dated 11.11.2016, but the same was not considered. Challenging the impugned order dated 31.12.2015 passed by the second respondent, the present writ petition has been filed seeking the aforesaid relief.



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3. Though very many grounds has been raised in this writ petition it would suffice if this Court directs the first respondent to consider the petitioner's application dated 31.10.2016 and pass appropriate orders within the time frame that may be stipulated by this Court.

4. Learned counsel appearing for respondents 1 and 2 submitted that the property in R.S.No.611/32 is classified as Natham – SarkarPoramboke – Vacant site in the village records. Since the said property is vested with the Government, the respondents 1 and 2 have jurisdiction to interfere to prevent the subject property from encroachment. Hence the impugned order is justifiable and in accordance with law. Therefore, the writ petition is liable to be dismissed.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Though the petitioner has challenged the impugned order however,



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in view of the limited request sought for by the petitioner, this Court without interfering with the order impugned directs the petitioner to send a copy of the representation dated 31.10.2016 to the second respondent along with a copy of this order within a period of four weeks from the date of receipt of a copy of this order and on receipt of such application the second respondent is directed to consider the same and pass appropriate orders after providing opportunity to the petitioner and third respondent on merits and in accordance with law within a period of twelve weeks thereafter.

7. Accordingly, this writ petition is disposed of with aforesaid directions. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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RAP
Index : Yes/No
Speaking order : Yes/No



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Erode District,
Erode.
2. The Tahsildar,
Bhavani Taluk Office,
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M.DHANDAPANI, J.

RAP

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