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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.32710 OF 2014

D.Muthusamy

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Secretary to the Government
Revenue Department
Fort St. George,
Chennai - 600 009.
2. The State of Tamil Nadu
Rep. by the Secretary to Government
Environment and Forest Department
Fort St. George,
Chennai - 600 009.
3. The District Collector
Namakkal,
Namakkal District.
4. The Tahsildar
Rasipuram Taluk,
Namakkal District.
5. The District Forest Officer
Namakkal,
Namakkal District.

... Respondents

PRAYER: Writ petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the third respondent in Na.Ka.No.8916/2014/L-1 (3-53), dated 31.07.2014 and quash the same and thereby direct the respondents to reconsider the case of the petitioner in terms of the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, read with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 for issuance of patta to the petitioner.



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For Petitioner : Mr.Muthukumaran
for Mr.V.Thirupathi
For R1 to R4 : Mr.M.Rajendiran
Additional Government Pleader
For R5 : Mr.T.Arun Kumar
Additional Government Pleader (Forest)

O R D E R

Heard the submissions.

2.The petitioner is claiming himself in absolute and continuous possession and enjoyment of land comprising in unsurvey block No.2, Naraikinar, Rasipuram Taluk, Namakkal District. He has converted the lands, which were in irregular in shape, barren and uncultivable into cultivable agricultural lands and has also applied for patta to the said land and the said request was rejected by the third respondent by his order dated 31.07.2014.

3.According to the petitioner this matter was agitated before this Court in W.A.No.376 of 2008, wherein, considering the rights of the Scheduled Caste and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Hon'ble Division Bench of this Court, by its order, dated 20.10.2009, has directed the Government to consider the issuance of Patta to the similarly placed persons like petitioner and in spite of the same, the request made by the petitioner was also rejected.

4.A perusal of the impugned order shows that the land for which Patta was sought is concerned, it is found that the land was earmarked as per Board's Standing Order 15(40) for Hill Tribes viz., Kunduni Nadu taraf, Alattur Nadu taraf, Tiruppuli Nadu taraf, Edappuli Nadu taraf, Sittur Nadu taraf, Pirakkarai Nadu taraf, Bail Nadu taraf, Unanthangal taraf.

5.Admittedly, the petitioner belong to Scheduled Caste and he does not belong to any of the sections of Scheduled Tribes. Section 2(c) and 2(o) of Act 2007 clearly define that the Tribes, who were living inside the forest and depending on the forest produce for their livelihood or those who live for more than three generations prior to 13.12.2005 that is for 75 years, are entitled to get exemption from the Notification.

6.In the instant case, the petitioner claims that he belongs to Hindu Adi Dravida Scheduled Caste as per his own statement. Therefore, the petitioner being a Schedule Caste,



would not be entitled to the rights available on the Schedule Tribes under Section 2 of Act 2007. Particularly, the land was earmarked for the Malayalis or Sholagas of Schedule Tribes. Hence, the petitioner cannot claim for any right for issuance of Patta for the lands which were specifically earmarked for the Malayalis or Sholagas of Schedule Tribes under the Board Standing Order 15(40) Hill Tribes - Conditional Assignment. Therefore, I do not find any discrepancy in the order passed by the third respondent.

7. Accordingly, the order passed by the third respondent in Na.Ka.No.8916/2014/L-1(3-53) dated 31.07.2014 is hereby confirmed and the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Dua/tk
To

1. The Secretary to the Government
State of Tamil Nadu
Revenue Department, Fort. St. George,
Chennai - 600 009.
2. The Secretary to Government
State of Tamil Nadu
Environment and Forest Department
Fort St. George,
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Namakkal, Namakkal District.
4. The Tahsildar
Rasipuram Taluk
Namakkal District.
5. The District Forest Officer
Namakkal, Namakkal District.

+lcc to the Special Government Pleader, (Forest) S.R.No.14242
+lcc to the Government Pleader, S.R.No.14153

W.P.NO.32710 OF 2014

NR(CO)
CT 31/03/2022