

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1802 of 2024

Sulthan Kalil Rahuman

... Petitioner

Vs

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.

3.Fazul Ashap

4.Buhari Sulaiman Lebai

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to dispose the proceedings in Na.Ka.A3/5901/2018 within a stipulated time fixed by this Court.

For Petitioner

: Mr.S.Muniyandi

For R1 & R2

: Mr.A.Kannan

Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the second respondent to dispose the proceedings in Na.Ka.A3/5901/2018 within a stipulated time fixed by this Court.

2. Heard Mr.S.Muniyandi, learned counsel appearing for the petitioner and Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents 1 & 2.

3. Considering the nature of the order proposed to be passed, protecting the interest of the respondents 3 & 4 also, notice to the respondents 3 & 4 is dispensed with. By consent, this writ petition is disposed of at the admission itself.

4. According to the petitioner, the property in Survey No.362/3D with an extent of 0.58.0 hectors situated at Kayamozhi Village, Tiruchendur Taluk, Thoothukudi District is his ancestral property. After death of the petitioner's father, he is enjoying the property along with his brother without any encumbrances. In the meantime, the fourth respondent fabricated the documents as he is the owner of the property and sold it to the third respondent on 21.01.1992. The third respondent filed a suit before the learned District

Munsif Court, Tiruchendur in O.S.No.21 of 2013 praying to declared the property in survey No.362/3D is absolutely belonged to him. The said suit was dismissed for default on 15.07.2013. The Tahsildar, Tiruchendur without conducting an enquiry and without giving notice to the holder of the patta, he simply included the third respondent's name in the joint patta in his proceedings in Na.Ka.Aa3/6947/2018, dated 10.08.2018. Therefore, the petitioner filed an appeal before the first respondent to cancel the patta issued in favour of the third respondent. The appeal petition was forwarded to the second respondent for taking necessary action because the second respondent is the competent authority to correct the entries. The second respondent had taken the proceedings in Na.Ka.A3/5901/2018 and sent a notice to all the parties for appearance. He was appeared in person before the second respondent and gave an explanation regarding the wrong inclusion of the name in the patta. Since the respondents 1 & 2 have not taken any action to dispose of the appeal petition, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

5. The learned Additional Government Pleader appearing for the respondents would submit that appropriate direction may be given to the second respondent to dispose of the proceedings pending before the second respondent, in accordance with law, within a time frame.

6. Considering the limited scope of the prayer sought for by the petitioner, without going into the merits of the matter, this Court directs the second respondent to dispose the proceeding in Na.Ka.A3/5901/2018, pass orders on merits and in accordance with law after affording an opportunity to all the parties concerned. Such exercise shall be completed within a period of sixteen (16) weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is disposed of. No costs.

31.01.2024

Index : Yes/No
Internet: Yes/No
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To

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2.The Revenue Divisional Officer,
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V.BHAVANI SUBBAROYAN, J.

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