

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.30756/2014 & MP.No.1/2014

P.Kandasamy

.. Petitioner

Versus

- 1.The Secretary to Government
Revenue Department, St George
fort, Chennai 600 009.
- 2.The Commissioner
Hindu Religious & Charitable Endowment
Board, 119, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034.
- 3.The District Collector,
Tiruppur, collectorate,
Tirupur Cotton Market,
Tirupur 641 604.
- 4.The Superintendent of Police
O/o.The Superintendent of Police
Tirupur Rural, Tirupur 641 602.
- 5.The District Revenue Officer
DRO Office, Tirupur Cotton Market
Tirupur 641 604.
- 6.The Tahsildar
Tirupur South Taluk Office
Veerapandi, Tirupur 641 605.
- 7.The Executive Officer
A/M.Visweswara Swamy,
Visalatchiamman Subramanya
Swamy Thirukoil, Nallur,
Tirupur 641 606.

8.Tirupur District Registrar
O/o.the District Registrar,
Tirupur 641 602.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the respondents 2 to 8 from dispossessing the petitioner's possession of the land of an extent of 3 acres 10 cents comprised in survey No.63 at Nallur village, Tirupur District.

For Petitioner : Mr.S.Anand
For RR 1,3,5,6&8 : Mr.R.Vijayakumar, AGP
For R2&R7 : Mr.M.L.Mahendran, GA

ORDER

Heard Mr.S.Anand, learned counsel for the petitioner ; Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents 1, 3, 5, 6 and 8 and Mr.M.L.Mahendran, learned Government Advocate appearing for the respondents 2 and 7 and perused the material available on record including the counter affidavits filed by the Commissioner, HR&CE ; by the Superintendent of Police, Tiruppur District and by the Tahsildar, Tiruppur [North].

2.The petitioner seeks for issuance of a writ of mandamus to forbear the respondents 2 to 8 from dispossessing the petitioner's possession of the land of an extent of 3 acres 10 cents comprised in survey No.63 at Nallur village, Tirupur District.

3.The petitioner would claim to be in possession of the land in question, which accordance to the respondents are required for the purpose of constructing a Collectorate. In this regard, the respondents have referred to various Government Orders by which permission has been granted to enter upon the land in question. It is not in dispute that the petitioner claims for grant of Ryotwari patta in his favour. The application filed by the petitioner was rejected by the Assistant Settlement Officer, Dharapuram, as against which, the petitioner filed an appeal before the Inam Tribunal, viz., the Principal Sub Court, Coimbatore and the Tribunal has also rejected the petitioner's appeal, vide order dated 16.11.2006. It is stated by the petitioner that as against the dismissal of the appeal the petitioner has preferred STA No.3/2008 before this Court. However, there is no interim order granted by this Court. In the interregnum, the petitioner, fearing that he will be forcibly evicted and dispossessed from the property in question, has filed the present writ petition.

4. At this stage, it would be relevant to take note of the counter affidavit filed by the Commissioner, HR&CE. In the said counter, the proceedings initiated by the petitioner for grant of Ryotwari patta have been elaborately dealt with and it is stated that the appeal filed by the petitioner has also been rejected by the Inam Tribunal and as on date, there is no interim order granted by this Court in STA.No.3/2008 and the matter is pending for the past 7 years. Therefore, it is submitted that the respondents are entitled to invoke the provisions of the Act and take action to resume the land. It is further stated that the title and patta stands in the name of the 7th respondent/temple and therefore, the authorities of the revenue department approached the HR&CE Department for the land and it was agreed to sell the property and the process of sale was finalised after following the due procedure under section 34 of the Hindu Religious & Charitable Endowment Act and the Rules framed thereunder. Further, it is stated that as on date, the petitioner has got no right, title or interest over the property in question and the property belongs to the 7th respondent/Temple. It is also stated that the Government in G.O.Ms.No.177 dated 28.06.2012, has accorded necessary permission to the Commissioner, HR&CE, to sell the land and the Commissioner, in turn, by proceedings dated 28.12.2012, has granted necessary permission to the Executive Officer to give enter upon permission to the Revenue Department to start the work for construction of the Collectorate complex.

5. The Superintendent of Police, Tirupur District, has also filed a counter affidavit adverting to the same contentions raised by the Commissioner, HR&CE and it is submitted that there is no threat meted out to the petitioner by the Tahsildar, Tirupur [South].

6. The Tahsildar [South], Tirupur, has also filed a counter affidavit reiterating the stand taken by the HR&CE Department and contending that the claim for Ryotwari patta made by the petitioner was rejected by the Settlement Officer as there was no evidence produced to show the continuous possession of the land by the petitioner for 60 years before 01.04.1960 or 12 years continuous possession and therefore, the same was rightly denied by the Settlement Officer, Gobichettipalayam, vide order dated 07.10.1968. The Settlement Officer, Dharapuram, has also rejected the appeal filed by the petitioner. The allegation that the petitioner's uncle was in continuous possession and enjoyment is false. Further, it is stated that all the orders have been passed after conducting due enquiry and the petitioner never had patta, chitta or adangal in his name. Further, in order to prevent the authorities from proceeding under law, the petitioner has filed the present writ petition.

7. In the light of the above facts, it is evidently clear that as

on date, the petitioner does not have any patta in his name. Though the appeal is pending before this Court in STA.No.3/2008, there is no interim order. According to the respondents, the land is required for public purpose, i.e, to construct a Collectorate building, and as on date, the land has been registered in the name of the 7th respondent/temple and the Government has granted permission to the Commissioner to sell the land and the Commissioner has granted permission to the Revenue Authorities to enter upon the land. In such circumstances, if the petitioner is found to be in possession, then the respondent cannot throw the petitioner out without issuing notice. Since the petitioner is unable to obtain any orders from the competent court protecting his possession, yet, the petitioner, if to be treated as an encroacher, has to be afforded an opportunity of personal hearing.

8. Accordingly the writ petition is disposed of with the observation that it is open to the HR&CE Department as well as the Revenue Department to issue notice to the petitioner and thereafter initiate proceedings against the petitioner to evict him in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/ True copy /

Sub Assistant Registrar

AP

To

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fort, Chennai 600 009.

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Tirupur 641 602.

+1 cc to the Government Pleader, High Court, Madras SR.8658

+2 cc to Mr.S.Anand, Advocate SR.8126

+1 cc to the Government Pleader, High Court, Madras SR.8407

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RSI (CO)
JK 21/02/15

सत्यमेव जयते

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