

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

Coram:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos. 33174 to 33180 of 2014 and

W.P.Nos.33917 to 33922 of 2014

S.Beeman	.. Petitioner in W.P.No.33174/2014
A.Kumar	.. Petitioner in W.P.No.33175/2014
K.Settu	.. Petitioner in W.P.No.33176/2014
N.subramani	.. Petitioner in W.P.No.33177/2014
S.Nagarajan	.. Petitioner in W.P.No.33178/2014
K.Subramani	.. Petitioner in W.P.No.33179/2014
N.Mannarsamy	.. Petitioner in W.P.No.33180/2014
N.Kuppan	.. Petitioner in W.P.No.33917/2013
M.Elumalai	.. Petitioner in W.P.No.33918/2013
S.Subramani	.. Petitioner in W.P.No.33919/2013
S.Ananth	.. Petitioner in W.P.No.33920/2013
K.Manjula	.. Petitioner in W.P.No.33921/2013
R.Elumalai	.. Petitioner in W.P.No.33922/2013

Vs

1. The District Collector,
Thiruvannamalai District
Thiruvannamalai
2. The Tahsildar,
Polur Taluk,
Thiruvannamalai District ..Respondents in all WP's

Prayer in WPs: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the relevant records pertaining to the Impugned order passed by the 2nd respondent herein vide his proceedings in Na.Ka.G3/5000/2013 dated 12.12.2013 and quash the same as arbitrary, illegal, unreasonable, being violative of rules and principles of natural justice and thereby directing the respondents to grant patta in the name of the petitioner for the lands in the continuously peaceful possession and enjoyment of the petitioner's land comprised in Survey no.527,198, 198, 198, 456, 456, 456, 456, 456, 404, 404, 404 and 400 respectively Athimoor Village, Polur Taluk, Thiruvannamalai District in an extent of 3,2, 2.5, 2.5, 3, 3, 3, 3, 2.5, 2, 2.5, 2 and 3 acres respectively acres within the stipulated time frame.

For Petitioner : Mr.A.R.Suresh

For Respondents: Mr.V.Jayaprakash Narayanan
Special Government Pleader

C O M M O N O R D E R

Heard Mr.A.R.Suresh, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for respondents.

2. The petitioner seeks to issue a Writ of Certiorarified Mandamus to quash the order passed by the 2nd respondent vide proceedings dated 12.12.2013 by the said proceedings, the petitioners request for grant of patta has been rejected. It is to be pointed out that the impugned order does not assign any independent reasons for rejection of the petitioners application for grant of patta. The only reason for rejection is by referring to the report filed by the District Forest officer, Thiruvannamalai vide proceedings dated 14.05.2013. From the Impugned Order, it is seen that the District Forest Officer has stated that on the terms of the proceedings issued by the Forest Department, no allotment can be granted by way of patta for a radius of 60.4 meters and further it is stated that when the spot inspection was conducted, it was found that the land in Survey no.198 has been mentioned as "Reserve Forest". Earlier, the petitioner approached this Court by filing W.P.No.22972 to 22984 of 2013 praying to issue a Writ of Mandamus directing the respondents to grant patta in their name on the ground that they are continuously in possession and enjoyment of the land and the Writ Petitions were disposed of by a direction to consider the same in accordance with law within a period of three months. Similar directions were issued in several Writ Petitions and thereafter, the Impugned Order has been passed.

3. It appears that no enquiry was conducted before Impugned Order was passed and the petitioners were not given any opportunity to rebut themselves against the report made by the Forest Department.

4. According to the petitioners, they are in possession of the land for more than 40 years and they have put thatched structure and carrying agricultural operations. They are also paying necessary tax and revenue to the State Government. Therefore, it is stated that the Impugned Order passed by the 2nd respondent solely relying upon the report of the Forest Department is erroneous. Further it is submitted that the 2nd respondent ought to have considered a certificate dated 28.11.2007 issued by the Village Administration Officer stating that land has been classified as "Maickal Poramboke". Thus it appears that the Tahsildar has rejected the request for grant of patta on the ground that it is within the prescribed distance from

"Reserve Forest" and one of the survey number is classified as "Reserve Forest, the Revenue Department seems to have issued sufficient receipts. The validity and genuineness of those receipts have to be gone into. The petitioner would state that in the impugned order survey number has been stated 198 instead of 527.

5.The main question would be the land said to be in occupation of the petitioner is a forest land or a Government Poramboke land. If it is a forest land, then, there is absolute apprehension, unless and until it is established that occupant is forest dwellers for several generations. The other issue if it is not a forest land, but Government land, whether it falls under prohibitory distance, therefore, this issue cannot be solved out by the Tahsildar and necessarily it requires intervention of the District Collector, who has to consider the entire matter from calling report from the Revenue Department as well as the Forest Department.

6.In the light of the above, without setting aside the impugned order, the petitioner is directed to file a petition before the 1st respondent, which shall be in the form of Appeal as against the order passed by the 2nd respondent along with the copy of this order and if such petition is filed, the 1st respondent shall issue notice to the Revenue Department and summon all records concerning the lands as well as to the Forest Department to place the relevant materials on record. Thereafter, the 1st respondent shall conduct enquiry in the presence of the petitioner or their authorized representative as well as the Revenue Official and the Forest Official, as well as the Animal Husbandry Department, since there is a allegation that the land was initially classified as " Maickal Paramboke" and pass orders within a period of three weeks from the date of the petition, to be filed by the petitioner.

With the above observation, these Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar
Dated:17.2.15

True Copy

Sub Assistant Registrar

To

1. The District Collector,
Thiruvannamalai District
Thiruvannamalai

2. The Tahsildar,
Polur Taluk,
Thiruvannamalai District.

+1 cc to Mr.A.Rajendran, Advocate,SR.6906

+1 cc to Government Pleader,SR.6944.

jsv(co)
krd 21/2

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