

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.27261 of 2014
and
M.P.Nos.1 & 3 of 2014

M.Ponnusamy

...Petitioner

- Vs -

1. The District Collector,
Namakkal District, Namakkal.
 2. The Revenue Divisional Officer,
Thiruchengodu, Namakkal District.
 3. The Inspector of Police,
Nallur Police Station,
Paramathivelur Taluk,
Namakkal District.
 4. Thangarasu
 5. V.Palaniappan
 6. Rasu
 7. A.Gunasekaran
 8. A.Marimuthu
 9. Anbunathan
 10. Panchavarnam
 11. Annadurai
 12. Arumugham
 13. Murugesan
 14. Karthikeyan
- (R5 to R14 impleaded by an order
of this Court dated 22.07.2015 made
in M.P.No.2 of 2014 in W.P.No.
27261 of 2014)

...Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus forbearing the respondents 1 to 3 from allowing the 4th respondent and his men to open the shops situated in S.No.18/3, 18/4, 18/5, 18/6, 18/7, 18/8, 18/11, 18/12, 18/13, 18/14 and 19/4, Maniyanoor Village, M.Kandhampalayam, Paramathivelur Taluk, Namakkal District.

For Petitioner : Mr.C.Prakasam

For Respondents 1 to 3 : Mr.V.Subbiah
Special Government Pleader

For Respondents 4 to 14 : Mr.P.Valliappan

O R D E R

By consent, the writ petition is take up for final disposal.

2. The petitioner was elected as the president of Maniyanoor Village Panchayat in the year 2011 and he claims that he is in public life for the past 30 years and discharging his duties in accordance with law in that capacity. The petitioner would further state that in his village during the year 1977, the Tahsildar, Namakkal has issued house site patta in favour of Rasu, Angamuthu, Thangarasu, Athiyappan, Anubunathan, Palaniappan, Annadurai, Arumugam, Angappan and Shanmugam on condition that they should construct houses and should reside there. But without constructing houses, they constructed shops and let-out the same and are earning rental income from the said shops.

3. The said fact was brought to the knowledge of the second respondent, who issued show cause notice dated 09.09.2002. Challenging the legality of the same, the said persons filed O.S.No.122 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Paramathi, Namakkal District and obtained an order of status quo. Subsequently, it was dismissed for default on 06.08.2014 and thereafter they filed a petition for restoration and the same is pending. The petitioner also made an allegation that the said persons in connivance with the fourth respondent has destroyed the bore-well put up by the local body and that led to law and order problem resulting in the registration of a case in Crime No.203 of 2014 by the third respondent police under Section 107 of Cr.P.C. and the second respondent, Revenue Divisional Officer, Thiruchengodu has also passed an order under Section 111 dated 15.09.2014.

4. It is the specific stand of the petitioner that though the said persons were issued free house site patta for construction of houses, they have not done so but instead they have put up shops and let out the same for commercial purposes. Therefore, seeking a direction forbearing the respondents 1 to 3 from allowing the said persons from opening the shops situated in the above said Survey numbers, the petitioner has come forward to file this writ petition.

5. Mr.C.Prakasam, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of papers and would submit that challenging the vires of the show cause notice the said persons filed suit in O.S.No.122 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Paramathi and it was dismissed for default and it is yet to be restored on file. The learned counsel therefore seeks Mandamus forbearing the respondents 1 to 3 from allowing the private respondents from opening the shops in the above said survey numbers as they violated the condition of assignment and prays for appropriate orders.

6. I have heard the submissions of Mr.V.Subbiah, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.P.Valliappan, learned counsel appearing for respondents 4 to 14.

7. Mr.P.Valliappan, learned counsel has drawn the attention of this Court to the counter affidavit of the fourth respondent and would submit that the petitioner is the local body president and he has started indulging in corrupt activities and when it was brought to the knowledge of the Block Development Officer, Paramathi, notice was issued calling upon the petitioner to return the amount of Rs.1,13,520/- misappropriated by him and therefore the petitioner has developed animosity against the fourth respondent. It is also contended by the 4th respondent that neither the Government nor the revenue officials have any right over the grama natham land and though the suit has been dismissed for default, it has been restored to file on 11.02.2015 and consequently the interim order of status quo has also been restored.

8. It is further submitted by the learned counsel for the fourth respondent that unless the pattas granted to the private respondents are cancelled in the manner known to law, the petitioner cannot have any grievance and admittedly the suit challenging the show cause notice is still pending adjudication and therefore it is not open to the official respondents to take any action and prays for the dismissal of the writ petition.

9. This Court carefully considered the rival submissions and perused the materials placed before it.

10. The lands in question are classified as gramma natham and the private respondents were given patta on 07.11.2001 and thereafter the office of the second respondent issued show cause notice dated 09.09.2002, as to why patta should not be cancelled and it was also put to challenge in O.S.No.122 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Paramathi and the same is pending adjudication.

11. Admittedly, the pattas were issued in favour of the private parties and they are still in subsistence and the petitioner if having any grievance ought to brought to the knowledge of the concerned official respondents, but instead he has straight away approached this Court praying for cancellation of the patta on account of the fact that it was not put to use as per the original purpose. It is also pertinent to point out at this juncture that though the second respondent has issued show cause notice for cancellation of the patta, it has been put to challenge in O.S.No.122 of 2008 and the same is pending adjudication before the learned District Munsif-cum-Judicial Magistrate, Paramathi and in the said suit, the private respondents have obtained an order of status quo.

12. In the light of the above facts and circumstances, the relief sought for by the petitioner, as on today, cannot be granted. Therefore, the writ petition is dismissed and the interim order dated 14.10.2014 in M.P.No.1 of 2014 is vacated and consequently M.P.No.3 of 2014 is allowed. If the petitioner is so advised and if it is available in law, he is always at liberty to workout his remedies in the manner known to law. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Namakkal District, Namakkal.
2. The Revenue Divisional Officer,
Thiruchengodu, Namakkal District.
3. The Inspector of Police,
Nallur Police Station,
Paramathivelur Taluk,
Namakkal District.

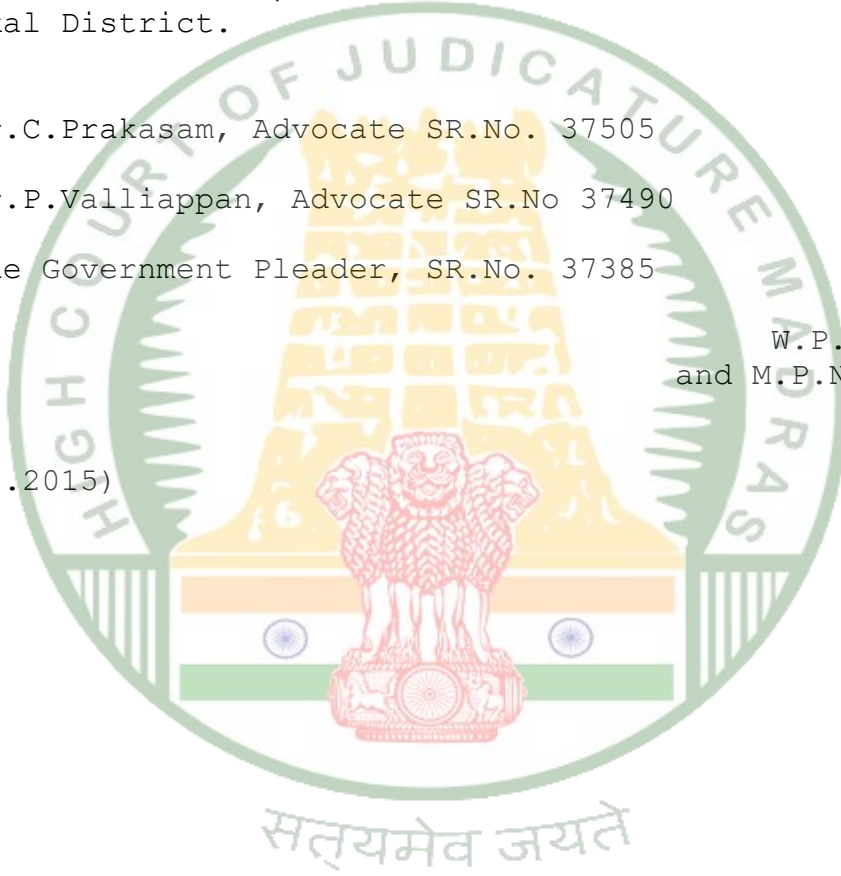
1 CC to Mr.C.Prakasam, Advocate SR.No. 37505

1 CC to Mr.P.Valliappan, Advocate SR.No 37490

1 CC to the Government Pleader, SR.No. 37385

W.P.No.27261 of 2014
and M.P.Nos.1 & 3 of 2014

EV (CO)
PSI (10.08.2015)



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