

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

C O R A M

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI  
AND  
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.1981 of 2013  
and  
M.P.No.1 of 2013

1.S.Rajammal  
2.S.Santha

... Petitioners

Vs.

1. The District Collector,  
Dharmapuri District  
Dharmapuri.
2. The Revenue Divisional Officer,  
O/o. Revenue Divisional Officer,  
Dharmapuri.
3. The Tahsildar,  
Taluk Office,  
Pennagaram.

... Respondents

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of mandamus to direct the respondents to restore the actual possession of the petitioners in the land situated in Survey No.528/2 and 529 Papparapatti Village, Pennagaram Taluk, Dharmapuri District in an extent of 0.01.0 cent, thereby grant residential land patta in the name of the petitioners on the land situated in Survey No.528/2 and 529, Papparapatti village, Pennagaram taluk, Dharmapuri District in an extent of 0.01.0 cents or in the adjacent available vacant land in the same survey numbers and classification based on the representation dated 14.05.2012 made to the respondents.

For Petitioners : Mr.K.Venkataramani, SC  
for Mr.S.Srinivasan

For Respondents : Mr.P.S.Sivashanmughasundaram,  
Special Government Pleader

ORDER

(The order of the court was made by SATISH K. AGNIHOTRI, J.)

The instant petition is filed by the petitioners, seeking to direct the respondents to restore the actual possession of the petitioners' land situated in S.Nos.528/2 and 529 in Papparapatti village, Pennagaram taluk, Dharmapuri District to an extent of 0.01.0 cent and to grant residential land patta in the name of the petitioners or in the adjacent available vacant land in the said survey numbers on the basis of their representation dated 14<sup>th</sup> May, 2012 submitted to the respondents.

2. It is the case of the petitioners that they are in possession and enjoyment of the said land even prior to 1984 by constructing a residential house. They have been making payment of property tax regularly. They have also got electricity connection in their name. They have submitted a representation dated 9<sup>th</sup> January, 2012 before the respondents, seeking to grant house site patta and the same is pending. Suddenly, they have received a notice dated 5<sup>th</sup> January, 2012 issued under Section 7 of the Land Encroachment Act, stating that the petitioners are encroachers and they were directed to submit their explanation before 11<sup>th</sup> January, 2012. The said notice was served on them only on 10<sup>th</sup> January, 2012. Pursuant to the said notice, they have produced relevant documents and records to establish their possession and enjoyment, before the third respondent Tahsildar, Pennagaram on 11<sup>th</sup> January, 2012. But, the respondents, without notice and affording an opportunity to the petitioners, had demolished the residential house on the same day itself. Even after the demolition, the petitioners continue to reside in the said property with the remaining household articles. The petitioners are not encroachers. Therefore, the petitioners submitted a detailed representation dated 14<sup>th</sup> May, 2012 to the respondents, seeking to restore their actual possession and also to grant residential patta. As there is no response, the instant petition has been filed.

3. On the earlier occasions, when the matter came up for hearing, status quo was directed to be maintained and the respondents were directed to file counter. On the last occasion, i.e., on 9<sup>th</sup> September, 2015, recording the submissions of the learned Senior Counsel appearing for the petitioners that since the huts occupied by the petitioners have already been demolished, the petitioners will be satisfied if a piece of land of the same extent is allotted somewhere as an alternative site to them to have proper shelter, we granted time to the respondents to consider and file an appropriate response for the same.

4. The third respondent has filed his response dated 26<sup>th</sup> September, 2015, submitting as under :

"3. It is humbly submitted that the writ petitioner Mrs.Rajammal was provided alternative site to an extent of vacant land 0.01.0 cent (1100 square feet) for the same measurement area at Pikili Gramam in Survey No.233/5 and patta was also issued in her name by the third respondent herein. The alternative site provided by the third respondent is next village which is 16 km from the original removed place. The writ petitioner and her daughter Shantha is having patta land (patta No.1036) to an extent of 1.27 Acre which is ½ kilo meter from the encroached removed place."

5. The petitioners have responded to the said allotment by filing their rejoinder dated 7<sup>th</sup> October, 2015, as under :

"6.I respectfully submit that in contra to our above claim the one cent of land granted in Pickili village is not the next village as wrongly and falsely alleged by the 3<sup>rd</sup> respondent in his counter. The pickili village has been situated 16 to 20 kms away from the Papparapatti village (i.e where the petitioners house was demolished) as rightly admitted in the counter and 32 kms away from Dharmapuri District. Even the land allotted at pickili village is not been identified to us by the respondents. From Papparapatti village we have to cross 13 villages to reach pickili village. The name of the 13 villages situated in between Papparapatti and Pickili villages are (1)

A.Papparapatti, (2) Periyar Nagar, (3)  
Thattalampatti, (4) Pinnaikulam, (5) Kittampatti, (6)  
Thirumalvadi, (7) Kukkuthu Marahalli, (8)  
Nagamarathurpallam, (9) Mannalpallam, (10)  
Mettupallam, (11) Karipallam, (12) Puthukarambu and  
(13) E.K.Kottai.

7. respectfully submit that the pickili village is a remote village surrounded by Hills on the four sides with thick Hill forest. The Wild animals like elephants used to come frequently and some time used to attach human beings. The pickili village is not fit and safe for residential purposes. I am 86 years old and suffering with very poor eye sight and the 2<sup>nd</sup> petitioner is my daughter who is 52 years old. At this old age and health condition it will not be possible for us to live in that village, since we both of us have to live lonely with the fear of life danger due to wild animals that to in a far off place from my demolished residential house. I am selling flowers at papparapatty street and getting very meager amount, if I shifted to pickili village even that amount I will not get for my basic necessity, since the said old age pension is also meager. The averments in the counter regarding the possession of patta lands in 1.27 acres is not fully correct, since the said land is a agricultural lands and for several years agricultural operations are not made by us due to water scarcity. The extent of the said agricultural lands are also wrongly stated in the counter. If we shifted to pickili it will not be possible even to visit the said land. "

6. In view of the aforesated factual matrix, no further adjudication is required. However, having regard to the humane aspect, as indicated by the petitioners, the authorities are directed to reconsider to allot the place of the same extent in a nearby place where they can have other facilities, which is necessary for the old age person, like the first petitioner, who is an octogenarian, at the earliest, preferably within a period of eight weeks from the date of receipt of a copy of this order.

7. The writ petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The District Collector,  
Dharmapuri District  
Dharmapuri.
2. The Revenue Divisional Officer,  
O/o. Revenue Divisional Officer,  
Dharmapuri.
3. The Tahsildar,  
Taluk Office,  
Pennagaram.

+1cc to Mr.S.Srinivasan, Advocate, S.R.No.56505

W.P. No.1981 of 2013

TM(CO)  
CA(02/11/2015)

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