

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.9476 of 2014

P.Theerthan

... Petitioner

Vs.

1. The District Collector,
Villupuram,
Villupuram District.
2. The Revenue Divisional Officer,
Kallakuruchi,
Villupuram District.
3. The Tahsildar,
Chinna Salem,
Villupuram District.

... Respondents

The writ petition has been filed, under Article 226 of the Constitution of India, praying for the issue of a writ of mandamus, directing the respondents to consider and pass orders on the representation of the petitioner, dated 19.4.2013.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.R.Ravichandran,
Additional Government Pleader

ORDER

Heard.

2. This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondents to consider and pass orders on the representation of the petitioner, dated 19.4.2013.

3. At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the respondents has submitted a counter affidavit, dated 18.8.2014. Paragraphs 3,4,5,6 and 8 of the said counter affidavit read as follows:

"(3)I respectfully submit that the Petitioner is the Native of Kottaputhur Village, Vellimalai, of Chinnasalem Taluk, Villupuram District and he belongs to "Hindu - Malayali" a Tribal community. The land is S.No.99/2, measuring an Extent of 0.84 Aeres is Classified as "Kadu" i.e., Reserve Forest in the Revenue Accounts. The Vellimalai Hill Tribals have been issued Patta to their cultivating lands and the remaining lands are reserved as Forest and the Forest Settlement work has been completed after giving sufficient opportunity to claim their rights over the cultivable lands by the Forest Settlement Officer.

The lands classified as "Kadu" i.e., Reserve Forest are under the full control of the Forest Department and in which certain exceptions in the conservation of Forest Act 1980 are given to take some welfare measures of the Tribals, such as :

- 1.Schools
- 2.Hospitals
- 3.Anganvadis
- 4.Fair Price Shops
- 5.Electric Lines and Transformer settings
- 6.Tanks and Minor Water resources
- 7.Drinking Water facilities etc.,

(4)I respectfully submit that the Vellimalai Panchayat Board in their resolution Dt. 24.12.2012 have passed to allotting land in S.Nos.99/1 and 99/2 - total 0.79.0 Hectares (2.00 Acres) for the construction of Additional School Building in Kottaputhur Village H/o Kandikkal Revenue Village in their resolution No.26/12. It is submitted that accordingly the Revenue Department has initiated land alienation proposals for the Tribal Welfare Department. Only in this Juncture the Petitioner has approached the Honourable High Court to intervene and request for remedy.

(5)I respectfully submit that the Petitioner being a Tribal and now an educated from the same Tribal Community he ought to have expected to handover the Poramboke land voluntarily for the construction of additional school buildings in his native local village.

The petitioner and his Family members owned the Patta lands as follows.

Name of the Village Vanniyur

S.No.	Patta No.	Pattadarar Name	Survey No	Extent Owned
1.	154	Theerthan S/o Pichainattan	88/1I	0.51.5
2	152	Elumalai S/o Theerthan	88/1G	0.71.0
3	147	Palanisamy S/o Theerthan	88/1B	0.71.0
4	148	Mutharasan S/o Theerthan	88/1C	0.71.0
5	149	Theerthan S/o Pichan	88/1D	0.30.0
6	149	Theerthan S/o Pichan	88/1F	0.41.0
7	146	Velli S/o Pichainattan	88/1A	1.62.5
8	146	Velli S/o Pichainattan	88/1E	1.21.5
9	146	Velli S/o Pichainattan	88/1H	0.51.0
		Total		6.70.5

The petitioner and his Family members enjoyed the
Poramboke lands as follows as :

Name of the Village Vanniyur

S.No.	Survey No	Classification	Pattadarar Name	Extent Enjoyed
1	90/3	Govt Poramboke	Thayammal W/o Velli	0.06.5
2	88/5	Govt Tarisu	Thayammal W/o Velli	0.26.0
3	88/5	Govt Tarisu	Pichiyammal W/o Theerthan	0.26.0
4	88/3	Govt Poramboke	Pichiyammal W/o Theerthan	0.46.5
5	88/4	Govt Poramboke	Thayammal W/o Velli	0.53.0
			Total	1.58.0

(6)I respectfully submit that the Petitioner and his brother family owned around 6.70.5 Hectares (i.e., 16.57 Acres) Patta lands and himself and his family members are encroaching the Government Poramboke lands to an extent of 1.58.0 Hectares (i.e., 3.90 Acres) and is cultivating the above on his own effort. Mr.Velli own brother of Theerthan had filed writ petition bearing W.P.No.5671/2013 dated 07.03.2013 regarding this same issue and the Honourable Court passed orders on 27.03.2013 as follows.

"The petitioner is a big pattadar of his yearly income is above Rs.5,00,000/-. He has encroached the Poramboke land to an extent of 2.30 hectares and is including the above land on his effort.

In the light of the said stand taken by the Third respondent in the counter affidavit no directions as sought for in this Writ Petition can be issued and the writ petition is dismissed. No costs."

* * * * *

(8)I respectfully submit that the above said writ petition is not meritable neither by law nor on fact and the same is liable to be dismissed. The petitioner made a representation to be Tahsildar, the 3rd respondent has conducted enquiry and given proper reply to the petitioner. The petitioner's brother namely Mr.Velli has filed a writ petition bearing W.P.No.5671/2013, for the very same relief for the very same property. The above said writ petition has dismissed on 07.03.2013. Now the petitioner's brother Mr.Theerthan has filed this present writ petition and the very same property without disclosing the fact about writ petition."

4. In view of the averments made in the counter affidavit filed on behalf of the third respondent, this Court is of the considered view that the relief prayed for, by the petitioner, in the present writ petition, cannot be granted by this Court. Hence, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vvk

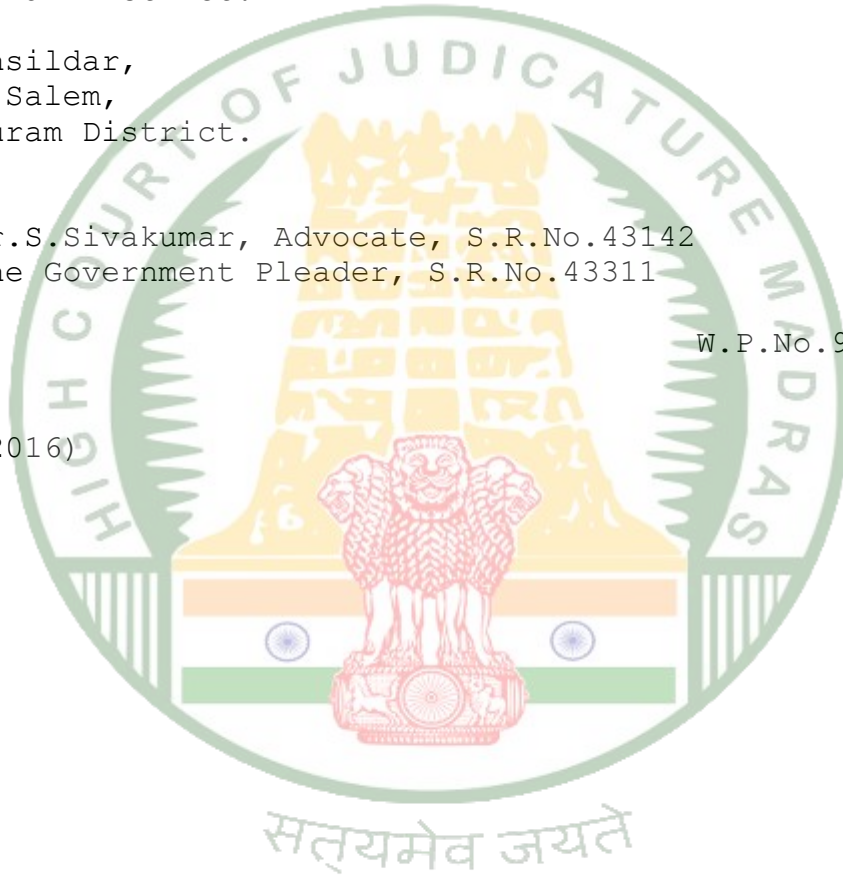
To

1. The District Collector,
Villupuram,
Villupuram District.
2. The Revenue Divisional Officer,
Kallakuruchi,
Villupuram District.
3. The Tahsildar,
Chinna Salem,
Villupuram District.

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.43142
+1cc to the Government Pleader, S.R.No.43311

W.P.No.9476 of 2014

BVR (CO)
CA(17/08/2016)



WEB COPY