

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15386 of 2016

1.N.Jayavel
2.N.Viswanathan
3.N.Karthikeyan

... Petitioners

vs.

1.The District Collector of
Kancheepuram District,
Office of the District Collector,
Collectorate, Kancheepuram.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional
Officer, Tambaram, Chennai - 45.

3.The Tahsildar,
Office of the Tahsildar,
Sholinganallur Taluk,
Chennai - 119.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 1 to 3 to pass orders on the petitioners' representation dated 02.03.2016 in accordance with law so as to enable the petitioners to have their names restored in the patta, chitta, 'A' Register and Village Records in respect of the property in Patta No.6424, comprised in Survey No.439/2 to an extent of 2.40.0 hectares, situated at Sholinganallur Village, Sholinganallur Taluk, Kancheepuram District.

For Petitioners : Mr.B.Nedunchezhiyan

For Respondents : Mr.M.Digvijaya Pandian,
Addl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioners have come up with the present writ petition for a mandamus, directing the respondents 1 to 3 to pass orders on their representation dated 2.3.2016 in accordance with law so as to enable them to have their names restored in the patta, chitta, 'A' Register and Village Records in respect of the property in Patta No.6424, comprised in Survey No.439/2 measuring to an extent of 2.40.0 hectares, situated at Sholinganallur Village, Sholinganallur Taluk, Kancheepuram District.

3. The case of the petitioners, in brief, is as follows:-

(a) Originally, the land measuring to an extent of 2.40.0 hectares, in Patta No.6424, comprised in Survey No.439/2, situated at Sholinganallur Village, Sholinganallur Taluk, Kancheepuram District was under the possession of the petitioners' grand father Kesavan, who was cultivating the same till his death. After his death, the petitioners' father K.Natarajan being the legal heir of their grand father, took possession of the said property and cultivated the same. Thus, for more than 85 years, the said land has been under the possession of their grand father, their father and themselves. No 'B' memo was issued by the Revenue authorities as they themselves have treated the land as the family properties of the petitioners.

(b) On the western side of the said property, a road has been laid and on the southern side, Veterinary hospital has been formed by the Government and the property which is under the occupation and possession of the petitioners is till untouched by the Government authorities. While so, the petitioners' brother applied for patta to the said land in favour of their father K.Natarajan. In the year 1994, the Inspector of Land Survey (Mobile) came to their land for inspection and surveyed the land and advised the petitioners' father to approach the Revenue Authorities for regularization of his possession over the said property.

(c) Thereafter, the Zonal Deputy Tahsildar, Sholinganallur issued a computerized copy of the regular patta in Patta No.1803 for the said land in the name of their father K.Natarajan. The patta, chitta and 'A' register were available in the website in the name of their father. Therefore, it is clear that the third respondent has given patta, chitta and 'A' register in the name of their father. As per 'A' register, the said land was classified as Ryotwari and also wet land. After obtaining the copy of the patta from the Deputy Tahsildar, Sholinganallur, the petitioners' father settled the same on 9.6.2011 in favour of the petitioners. At the time of registration of the said settlement deed, the Sub Registrar, Neelankarai did not give

regular number for the deed, but kept the same pending for verification of the genuineness of the patta issued in favour of their father. Thereafter, the Sub Registrar, Neelankarai released the settlement deed by giving the regular number as document No.3804 of 2011.

(d) In the month of June, 2012, the petitioners entered into a registered agreement of sale through their power of attorney agent in favour of one Dharshan and others in respect of the said property. Later, they came to know that the name of the owner viz., their father was found missing in the web page and the land appeared to have become classified as Government land. Hence, the petitioners' counsel sent a legal notice to all the respondents on 5.11.2012 requesting them to restore the details with respect to patta, chitta apart from 'A' register with respect to the said land. But, the respondents have not given any reply to the said notice. Hence, the petitioners filed a writ petition before this Court in W.P.No.9003 of 2013 seeking a direction to the respondents to restore their father's name in the revenue records. Pending writ petition, their father's name was restored in the patta, chitta and 'A' register by the respondents on 4.7.2013 and hence, the said writ petition was withdrawn by them.

(e) Thereafter, they applied for mutation of their names in the patta, chitta and 'A' register which stood in the name of their father and the same was also transferred in the name of the petitioners in RPT No.7324/2013 dated 6.12.2013 vide patta No.6424. However, in the year 2014, the petitioners' names have been deleted in the patta, cheitta and 'A' register without any notice to them. In this regard, they sent a representation to the second respondent asking him to measure the property and restore their names in the revenue records. Since there was no response on the said representation, finally they sent a representation dated 2.3.2016. But, the same was also not considered so far. Hence, left with no other alternative, the petitioners have come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case, and considering the submissions made on either side, this Court directs the second respondent to consider the representation of the petitioners dated 2.3.2016 and pass appropriate orders / take appropriate action, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioners as well as to the other necessary parties, if any,

within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim projected by the petitioners and it is for the second respondent to consider the claim of the petitioners strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

sbi

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The District Collector of
Kancheepuram District,
Office of the District Collector,
Collectorate, Kancheepuram.
 2. The Revenue Divisional Officer,
Office of the Revenue Divisional
Officer, Tambaram, Chennai - 45.
 3. The Tahsildar,
Office of the Tahsildar,
Sholinganallur Taluk, Chennai - 119.
- + 1 cc to M/s.B.Neduchezhiyan, Advocate SR 26079
- + 1 cc to Govt.Pleader SR 26334
- + 1 cc to The Govt.Pleader, Sr 26324 (3/6/16)

ad(co)
prk5/5

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