

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.6702 of 2013

and M.P.No.1 of 2013

A.Mohan .. Petitioner

-vs-

1.The District Collector,
Collectorate, Salem District.

2.The Tahsildar,
Omalur Taluk Office, Salem.

3.The Executive Engineer,
Public Works Department (PWD),
Mettur Dam and Division,
Salem District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records from the 1st respondent pertaining to the impugned eviction notice, N.K.No.K2/6411-14/2010 K2 dt. 28.12.2012 and quash the same and to consequently direct respondents 2 and 3 to issue patta to the petitioner house and land respectively situated in survey No.680/10 and 680/11 in Karambakadu, Kadayampatti Village, Denishpettai, Omalur Taluk, Salem District.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.T.N.Rajagopalan
Spl.G.P. For RR 1 to 3

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks to assail the impugned eviction notice dated 28.12.2012 with a direction to the second and third respondents to issue patta to the petitioner.

2. In the counter-affidavit filed by the first respondent, it is stated as under:

'I submit that with regard to para 4 of the Affidavit, the contents of the writ petitioner is denied. He is the only son to his father. The writ petitioner himself owns patta land in Danishpet village (Near Village) in Patta No.123, S.No.627/1 extent 0.47.5 and Patta No.1479, S.No.627/3 extent 0.42.0 and totally 0.89.5 hectares owned by him. His father owns lands in patta No.664, S.No.626 extent 1.99.5 (Part) hectares and his mother owns Patta land in Patta No.51, S.No.627/4 extent 0.84.5 hectare. Since he is the only son he has got full share in all the lands owned by his parents. Further his father owns a terraced house at Salem. The Writ Petitioner is doing selling of Cows, Bullock and Goats and thereby earning about Rs.25000/- per month. Totally he is a rich man and not poor and below poverty line and ineligible for grant of patta at that time.

5. I submit that with regard to para 6 of the Affidavit, the contents of the writ petitioner is denied. As per Revenue records, he is the encroacher. The unauthorized encroachment is liable for eviction. He has lastly filed W.P. 18155/2007 and the Honble High Court in the judgment dated 9.12.2009 directed the Collector, Salem to consider his request in accordance with law. At that time, he is a rich petitioner as stated in para 2 and he is getting monthly income about Rs.25000/- since the Writ petitioner and his parents owns patta lands and a house also, his request was rejected by 1st respondent and the Collector, Salem in Roc K2/6411-14/2012 dated 28.12.2012.

6. I submit that with regard to para 7 and 8 of the Affidavit, the contents of the writ petitioner is denied. He is a rich man and occupied Eri poramboke and constructed a house in unauthorized near the water spread area obstructing free flow of water. He is not eligible to assign House site patta as per G.O.Ms. No.854 Revenue dated 30.12.2006. His representation was rejected by the Collector, Salem in Roc.K2-6411-14/2012 dated 28.12.2012 as per the instructions issued by Hon'ble High Court in WP 20186/2000 and 29342/2000 dated 27.6.05.'

3. The aforesaid read with impugned notice shows that there is one part of the land which is an Eri poramboke in respect of which certainly no patta can be issued in view of the Full Bench judgment of this Court in T.K.Shanmugam v. The State of Tamil Nadu, rep. by its Secretary and others, reported in 2015-5-L.W. 397.

4.As far as the remaining land is concerned, the petitioner has been found ineligible on account of the fact that he already owns a patta land and so does his father and mother from whom he becomes the inheritor ultimately even of that land. The father is also stated to have owned a terraced house at Salem.

5.In view of the aforesaid reasons, we cannot find fault with the impugned order.

6.Writ petition, accordingly, stands dismissed. No costs. Consequently, M.P.No.1 of 2013 also stands dismissed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1.The District Collector,
Collectorate, Salem District.

2.The Tahsildar,
Omalur Taluk Office, Salem.

3.The Executive Engineer,
Public Works Department (PWD),
Mettur Dam and Division,
Salem District.

+1 cc to Govt.Pleader,sr.69769.

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krd 8/12

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W.P.No.6702 of 2013

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