

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.34364 & 34365 of 2015

1. Suban
2. B.Abdul Hameed
3. Taira Bee
4. Shanavas
5. Shameer

... Petitioners in
both Writ Petitions

Vs.

1. The District Collector,
Villupuram District, Villupuram.
2. The Tahsildar,
Sankarapuram taluk,
Sankarapuram, Villupuram District.
3. The Special Tahsildar,
Adi-dravidar Welfare,
Taluk Office,
Kallakurichi, Villupuram District.

... Respondents in
both Writ Petitions

Prayer in W.P.No.34364 of 2015 : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents to remove the entry of Arunthathiyar Natham Colony in the village and taluk Accounts with respect of 60 cents of land in S.No.1/3 of Birmakundam village, Sankarapuram taluk, Villupuram District and issue computerized patta in the name of the petitioners of the petitioners as joint pattadars.

Prayer in W.P.No.34365 of 2015 : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents to remove the entry of Arunthathiyar Natham Colony in the village and taluk Accounts with respect of 3.70 acres of land in S.No.3/1B3B1 of Birmakundam village, Sankarapuram taluk, Villupuram District and issue computerized patta in the name of the petitioners of the petitioners as joint pattadars.

For Petitioner : M/s.R.N.Amarnath
For Respondent : Mr.S.Pattabiraman,
Government Advocate

COMMON ORDER

These writ petitions have been filed, praying for the issuance of writ of Mandamus, to direct the respondents to remove the entry of Arunthathiyar Natham Colony in the village and taluk Accounts in respect of the petitioners' land and issue computerized patta in the name of the petitioners of the petitioners as joint pattadars.

2. According to the petitioners, their father Late Bakshi Shaib was the owner of the lands measuring to an extent of 1.53.0 hectares comprised in S.No.3/1B3B1 of Birmakundam village, Sankarapuram taluk, Villupuram District and 60 cents comprised in S.No.1/3 of Birmakundam village, Sankarapuram taluk, Villupuram District. After his demise, mother of the petitioners executed four settlement deeds on 7.4.1997, in and by which, she settled the entire properties in favour of her three sons, viz., Abdul Kapoor, Abdul Basha and the first petitioner by allotting 1/4th share each and also 1/4th share in favour of three children of her predeceased son Late Abdul Raheem, namely, Shakila, Shamshath and Mumtaz. Subsequently, the first petitioner purchased the property owned by said Shakila, Shamshat and Mumtaz by way of sale deed dated 6.12.2005. The petitioners 3, 4 and 5 also purchased the shares of Late Abdul Kapoor from his widow, sons and daughters by way of registered sale deed dated 21.5.2003. Thus, the petitioner became the owner of the lands to an extent of 30 cents, 2nd petitioner and his brother Shaukath Ali became owner of the lands to an extent of 15 cents and the petitioners 3, 4 and 5 jointly owned the lands to an extent of 15 cents. While so, the properties were subjected to land acquisition, which was challenged by the petitioners before this Court in W.P.No.10865 of 1999 wherein, this Court by order, dated 13.2.2003, quashed the acquisition proceedings. Thereafter, the land owners made a representation to the second respondent, seeking to effect changes and issue patta in their names. On the basis of the said representation, by proceedings dated 25.9.2003, 2nd respondent wrote to 3rd respondent stating that the land owners' names were updated in the computerized patta based on the village accounts. The land owners were issued with computerized patta on 8.10.2004. In the meanwhile for the purpose of getting electricity supply to their property, the petitioners applied to the second respondent seeking a copy of A register relating to their property, at that

time, it was informed by the 2nd respondent that in the Village and Taluk Accounts, the subject lands registered as "Arunthathiar Natham Colony". therefore, the petitioners made a representation on 2.12.2010 to the second respondent to rectify the correction, who in turn, wrote a letter to the 3rd respondent to correct the records. The 3rd respondent wrote a letter to District Adi Dravida Welfare Officer to pass orders on the representation of the petitioners. Thereafter, the petitioners also made a representation dated 27.8.2015 to the respondents, seeking to effect changes in the village Accounts and Taluk Accounts and to issue computerized patta to the petitioners. However, till date no order is passed by the respondents. Hence, the writ petitions.

3. Counter affidavits have been filed by the third respondent, wherein, it is stated that in order to provide house site patta to the houseless Aruthathiyar families in Brammagundam village, Sankarapuram taluk, Villupuram District, an extent of 1.40.0 hectare of private dry lands were acquired under Tamil Nadu Harijan Welfare Scheme Act 31/78 and an Award was also passed on 20.3.2000 and consequently, the Village Accounts have been changed as "Arunthathiyar colony natham". The request of the petitioners to change the name in the Village and Taluk Accounts has been recommended to the District Adi Dravidar and Tribal Welfare Officer, Villupuram and orders are awaited and after receiving the orders, the names of the land owners would be inserted by removing "Arunthathiyar Colony Natham". With these averments, the third respondent prayed for dismissal of the writ petitions.

4. Heard the learned counsel for the petitioners and perused the entire materials available on record.

5. It is not in dispute that in earlier writ petition, i.e. W.P.No.10865 of 1999, this Court quashed the land acquisition proceedings in respect of the lands of the petitioners. However, since the lands were acquired and award was passed, the Village and Taluk Accounts have been changed as "Arunthathiyar Colony Natham" by removing the names of the land owners and it is stated by the third respondent that the request of the petitioners has been recommended to the District Adi Dravidar and Tribal Welfare Officer, Villupuram and as and when orders are received, they request of the petitioners would be considered. As rightly submitted by the learned counsel for the petitioners, in my opinion, the respondents 1 and 2 can independently consider the request of the petitioners on verification of the relevant records and for this purpose, no orders from District Adi Dravidar and Tribal Welfare Officer are required.

6. Accordingly, the respondents 1 and 2 are directed to consider the representation, dated 27.08.2015 independently without awaiting the orders from the District Adi Dravidar and Tribal Welfare Officer and pass orders in accordance with law, after affording an opportunity to the petitioners, within a period of six weeks from the date of receipt of a copy of this order.

These Writ Petitions are disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Villupuram District, Villupuram.
2. The Tahsildar,
Sankarapuram taluk,
Sankarapuram, Villupuram District.
3. The Special Tahsildar,
Adi-dravidar Welfare,
Taluk Office,
Kallakurichi, Villupuram District

+2cc's to Mr.R.N.Amarnath, Advocate, S.R.Nos.15289 & 15290
+1cc to the Government Pleader, S.R.No.15325

W.P.Nos.34364 & 34365 of 2015

MP(CO)
CA(14/03/2016)

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