

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2016

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 31817 of 2013
and
M.P. Nos. 1 of 2013 and 1 of 2014

Velayutham

..Petitioner

Vs.

1. The District Collector
Perambalur District
Perambalur
2. The Tahsildar
Veppanthattai Taluk
Perambalur District.
3. Jayakodi
4. Suganthi
5. Chinthamani ... Respondents
(R3 to R5 are impleaded as per order
dt.26.2.16 in MP.2/14 in WP.31817/13)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, declaring that the action of the respondents trying to evict the petitioner and his relatives by indulging in the illegal activities such as, trespassing and evicting the petitioner and his relatives from their possession and enjoyment of the land comprised in Survey No.511/2, admeasuring 37 cents classified as Gramanatham, situated at Kaikalathur Village, Veppanthattai Taluk as illegal, null and void and consequently direct the respondents to issue patta in favour of the petitioner in respect of the land comprised in Survey No.511/2 admeasuring 37 cents classified as Gramanatham situated in Kaikalathur Village, Veppanthattai Taluk and pass further orders.

For Petitioner : Mr. Ilanthiraiyan
for M/s. Sai Bharath and Ilan

For Respondents : Mr. D. Suryanarayanan for R1 & R2
No appearance for R3 to R5.

O R D E R

The petitioner has filed the present writ petition, praying to declare the action of the respondents, trying to evict the petitioner and his relatives by indulging in illegal activities such as, trespassing and evicting the petitioner and his relatives from their possession and enjoyment of the land, comprised in Survey No.511/2, admeasuring 37 cents classified as Gramanatham, situated at Kaikalathur Village, Veppanthattai Taluk as illegal, null and void and consequently direct the respondents to issue patta in favour of the petitioner in respect of the said land and pass further orders.

2. Learned counsel for the petitioner submitted that the petitioner had been in possession of the schedule mentioned property for the past 70 years and that the subject property is classified as "natham" land and it is not a government land. It is further submitted that the Revenue authorities have issued patta in favour of the some other persons for the said property. No notice has been issued by the respondents department for evicting the petitioner from the said property. However, the respondents 3 to 5 are trying to evict the petitioner from the peaceful and enjoyment, by trespassing into the property. The petitioner had submitted a representation dated 27.08.2013 requesting the respondent authorities to issue patta in his favour but no action has been taken on his said representation. Hence, the petitioner is before this Court by filing this writ petition.

3. Learned Special Government Pleader appearing for the Revenue submitted that the petitioner is not in possession of the said property, whereas, the other family members were only continuously paying the tax and that based on their representation, patta was issued in their name by the second respondent, after confirming their occupation in the said property. The petitioner's brother with an intention to grab the entire vacant natham land mutated the revenue records in their name. On enquiry the same was identified and classified as 'vacant natham' in the year 1984 itself. Therefore, the petitioner is not entitled to get any relief as claimed in his present writ petition.

4. Considered the submission made by the parties and perused the material available on record.

5. The contention of the petitioner is that he had been in possession and enjoyment of the land in Survey No.511/2 in Kaikalathur Village, Veppanthattai Taluk. But the petitioner has not produced any evidence to show that he has been in possession of the said property. The subject matter of the land is 'Gramanatham'. Therefore, the petitioner has to produce evidence to show that he has been in continuous possession of the said property. In the absence of any evidence, this Court cannot accept the stand of the petitioner that he is in possession of the said property. However, learned counsel for the petitioner would submit that the petitioner has made a representation on 27.08.2013 to the second respondent stating the above facts.

6. Hence, in the interest of justice, this Court is of the view that an opportunity may be given to the petitioner to produce documentary evidence before the revenue authorities, to prove that he has been in possession of the property. Therefore, taking into consideration the limited scope of consideration, the petitioner is directed to produce materials to prove that he is in possession of the said property, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such proof, the second respondent is at liberty to consider the same and pass orders, as expeditiously as possible, not later than 12 weeks thereafter.

7. The Writ Petition is disposed of, on the above terms. Consequently, the connected M.Ps are closed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The District Collector
Perambalur District, Perambalur
2. The Tahsildar
Veppanthattai Taluk Perambalur District.

+1 cc to Govt.Pleader, sr.74799
+1 cc to Mr.C.Prabakaran, advocate, sr.74585
+1 cc to M/s.Sai Bharath, advocate, sr.74275.

pa(co)
krd 14/2

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