

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.06.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice R.MAHADEVAN

W.P.No.13412 of 2013

K.Venkatachalam ... Petitioner

Versus

1.The District Collector,
Tirupur District.

2.The District Revenue Officer,
Tirupur.

3.The Revenue Divisional Officer,
Tirupur District.

4.The Tahsildar,
Palladam Taluk,
Tirupur District.

5.The President,
27(old No.63), Velampalayam Village,
Palladam Taluk, Tirupur District. ... Respondents

Petition filed under Article 226 of the Constitution of India
praying for the issue of a writ of Mandamus, directing the 1st
respondent to consider and dispose of the petitioner's representation
dated 27.06.2012 within a fixed time frame.

For Petitioner ::: Mr.P.M.Duraiswamy
For Respondents ::: Mr.S.T.S.Murthi
Government Pleader
assisted by
Mr.V.R.Kamalanathan AGP
for R.1 to R.4
Mr.Thambusamy
for Mr.B.Anand for R.5

O R D E R

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

The grievance of the petitioner is that unauthorised encroachment has been permitted by the respondent authorities in respect of a Village pond in S.F.No.76 of an extent of 47.5 ares (1 acre) in S.No.27 (Old No.63), Velampalayam Village, Palladam Taluk, Tirupur District.

2. Representations were stated to have been made in the year 2012, but to no avail.

3. On the other hand, the counter affidavit filed by the 5th respondent alleges that it is the petitioner who has encroached upon more than two acres of land and in order to prevent the authorities from taking action against him, he has filed this writ petition.

4. In respect of the land in question, it is alleged that land bearing S.F.No.76 is sub divided into S.F.Nos.76/1 and 76/2 by the Revenue Authorities and an extent of 1.02.02 Hec has been re-numbered as S.F.No.76/2 and converted as Natham Poramboke land in the year 2001 itself. Pattas are stated to have been issued for 86 Natham House sites, in the year 2001 and families are stated to be living there.

5. As far as S.F.No.76/1 to an extent of 5.45.0 Hec as Mandhai Poramboke (grazing ground) is concerned, the said land was converted after obtaining due permissions from the concerned authorities from grazing land to house site and 220 persons have been allotted the pattas. It is stated that the land in question is not a water body.

6. The petitioner sought to deny these allegations and states that he made an application dated 17.01.2014 under the RTI Act, but the Deputy Tahsildar in his reply dated 06.02.2014 refused to furnish the details sought.

7. On hearing the learned counsel for the parties, what emerges is that there are housing sites already in respect of which pattas have also been granted by conversion of grazing sites, after following due process. To that extent, it is not open to the petitioner to make a grievance. However, the question remains whether there is any pond in the area and if so, whether any encroachment has been made on the pond area.

8. We thus consider it appropriate to issue the following directions:-

(i) The area in question be inspected by the Tahsildar/4th respondent to demarcate the pond area and find out if there are any encroachment in the pond area.

(ii) If encroachments are found in the pond area, he should take action in accordance with law after notice to all concerned to clear the pond area.

(iii) Since the petitioner has approached the Court, he must act bona fide and his area should also be surveyed in the same period of time, to verify there is no encroachment on his part.

9. Learned counsel for the petitioner has already volunteered that if any encroachment is found, the petitioner will suo motu remove the encroachment, failing which the Tahsildar is free to take action at the cost of the petitioner.

10. The aforesaid exercise be completed within a maximum period of three months from the date of receipt of the order.

The writ petition accordingly stands disposed of, leaving the parties to bear their own costs.

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1.The District Collector, Tirupur District.

2.The District Revenue Officer, Tirupur.

3.The Revenue Divisional Officer, Tirupur District.

4.The Tahsildar, Palladam Taluk, Tirupur District.

+1 cc to M/s.A.S.Thambuswamy, advocate,sr.35887

+1 cc to M/s.P.M.Duraisamy, Advocate,sr.35611

+1 cc to Government pleader,sr.35643

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krd 20/7

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