

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.16895 of 2013

H.Gopinathan

... Petitioner

Vs

1. The State Rep.by its
The Secretary to Government
(Adi-Dravidar & Tribal Welfare Dept.)
Fort St.George, Chennai 600 009.

2. The District Collector,
Vellore District, Vellore.

3. The Tahsildar,
Tirupathur Taluk,
Vellore District.

4. Kamalammal
(R4 impleaded as per order dated 30.03.2015
in M.P.No.1 of 2013 in W.P.No.16895/2013)

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the third respondent to issue free land patta in Survey No.629/2 an extent of 1.13.5 hectare D.C.land located at Agraharam Village, Tirupattur Taluk within reasonable time.

For Petitioner : Mr.K.Thiruvalluvan

For R1 to R3 : Mr.R.Govindasamy
Special Government Pleader

For R4 : Mr.E.Kannadasan

O R D E R

The petitioner has made a representation to the third respondent dated 06.09.2010 seeking for grant of free D.C.patta relating to the lands comprised in S.No.629/2 at Agragaram Village, Tirupattur Taluk measuring an extent of 1.13.5 hectare.

2. According to the petitioner, he is residing in the village for the past 30 years along with his family. Since no action has been taken on his representation seeking issuance of patta, the petitioner has filed the present writ petition.

3. On the other hand, the learned counsel appearing for the fourth respondent would submit that the petitioner is a stranger to the property comprised in S.No.629/2 and that, he has never occupied the property at all. The learned counsel would further submit that the property was occupied by the fourth respondent's husband about twenty years back and that, they are in possession and enjoyment of the same by doing cultivation. According to the learned counsel for the fourth respondent, the petitioner is attempting to encroach the subject lands. In this connection, the fourth respondent has also filed a suit in O.S.No.81 of 2011 on the file of the District Munsif Court, Tirupattur seeking for permanent injunction and for declaration against the respondents 2 and 3, which is pending before the said Court.

4. The learned Special Government Pleader would also submit that the petitioner is not in possession of the property comprised in S.No.629/2.

5. Heard all the counsels and perused the materials available on record.

6. It is needless to point out at this juncture that all the factual aspects with regard to possession, enjoyment or title of the lands in question, cannot be gone into in the writ petition by exercising power under Article 226 of the Constitution of India. Furthermore, the Civil Suit in O.S.No.81/2011 filed by the 4th respondent claiming rights in the subject lands is also pending.

7. Nevertheless, the petitioner has made an application seeking patta, for which, there is a procedure contemplated in the Patta Pass Book Act and which has to be followed by the respondent. However, the respondents without conducting an enquiry as per the procedure contemplated and without passing any order, is keeping the application pending, which amounts to dereliction of their duty. Under such circumstances, it would be desirable to direct the respondents to do their ordinary duties within a time frame.

8. Hence there shall be a direction to the third respondent to consider the petitioners' application seeking for issuance of patta and pass orders on its own merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Before conducting enquiry, the third

respondent is directed to give due notice to the 4th respondent and to all the interested parties. The third respondent shall also take into account the pendency of the suit in O.S.No.81 of 2011 on the file of the District Munsif Court, Tirupattur. It is made clear that I have not expressed any views with regard to title, possession or enjoyment over the lands in question by either of the parties.

Accordingly, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kkd

To

1. The Secretary to Government
(Adi-Dravidar & Tribal Welfare Dept.)
Fort St.George, Chennai 600 009.
2. The District Collector,
Vellore District, Vellore.
3. The Tahsildar,
Tirupathur Taluk,
Vellore District.

+1cc to Mr.K.Thiruvalluvan, Advocate, S.R.No.66090
+1cc to Mr.E.Kannadasan, Advocate, S.R.No.65736
+1cc to the Government Pleader, S.R.No.66136

W.P.No.16895 of 2013

NRJK(CO)
CA(29/12/2016)

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