

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8357 of 2016

M.Rajendiran

.. Petitioner

Vs.

1. The District Collector,
Vengikkal Village and Post,
Thiruvannamalai District,
Thiruvannamalai.
2. The District Revenue Officer,
Collectorate Building,
Vengikkal Village and Post,
Thiruvannamalai District,
Thiruvannamalai.
3. The Revenue Divisional Officer,
Revenue Divisional Office,
Thiruvannamalaia District,
Thiruvannamalai.
4. The Tasildar,
Anna Salai,
Thiruvannamalai District,
Thiruvannamalai.
5. Selvam
6. Arockiasamy
7. Lucas

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to consider the petitioner's representation, dated 23.11.2015 and consequently direct the respondents 1 to 4 to cancel the patta bearing Survey No.640/1 in patta No.2366 issued by the fourth respondent in favour of the respondents 5 to 7.

For Petitioner	: Mr.K.R.Santhanagopal
For Respondents	: Mr.M.Dig Vijay Pandian, Addl.G.P. for RR-1 to 4

ORDER

The petitioners have filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to consider the petitioner's representation, dated 23.11.2015 and consequently direct the respondents 1 to 4 to cancel the patta bearing Survey No.640/1 in patta No.2366 issued by the fourth respondent in favour of the respondents 5 to 7.

2. In the affidavit filed in support of the Writ Petition, the petitioner averred that Vettavalam Town Panchayat is situated in Thiruvannamalai District about 25 Kms. from Thiruvannamalai Town in Thiruvannamalai--Vizhupuram Road, surrounded by mountains/hillocks on all four sides with Streets in survey numbers; the stream and canal water are existing there as per the records. For free flow of water through channels in the village and in order to avoid inundation of water, the water is drained through streams and canals to reach farming lands of around 1000 acres throughout the year. The existing pond is known as "Nulla Thanneer Kuttai", which earlier existed as a lake in Survey No.366 falling under the said Vettavalam Village/towns of Thiruvannamalai District. The said lake is encroached by the respondents 1 to 4 and it was converted into a road, thereby, leaving major portion of the lake as dry land by blocking the flow of water in the canals and it is now with thorns and bushes. The disputed lands as per the documents of the Village accounts is in old Survey No.221 and as per Vettavalam Town Panchayat records, it is found in new Survey No.640 of an extent of 7,828 Sq.Mts. and part of the canal is used as approach road for the public, resulting in shrinking of about 70% of the canal. The respondents-authorities divided the Survey No.640 into sub-divisions and issued patta as Survey No.640/1 containing approximately around 125 Sq.Mts. to the respondents 5 to 7 and the said plot was under Old Survey No.221 in the village account with Patta No.2366, however, in Vettavalam Town Panchayat records, it is in Survey No.640/1. It is the grievance of the petitioner that the vacant site allotted to the respondents 5 to 7 under Old Survey No.221, New Survey No.640/1, covers the centre of the road, wherein construction of houses had been planned. In such a case, the said houses will not only cover the middle of the road area, but will also end in one side of St.Antony's Church Street, thereby affecting the petitioner, as he will not have approach access from his house in Survey No.696 and also neighbour in Survey No.700. The access will also be denied to public even during emergency or any functions/festivals and further, only Government Hospital exists in the village. The other allottees under Survey Nos.640/2 to 640/8 actually encroached on the canal also, leaving very small portion of the road.

3. It is the further case of the petitioner that issuance of patta by the fourth respondent to the respondents 5 to 7 is against the provisions of the Tamil Nadu Land Encroachment Act and therefore, the pattas issued under Survey Nos.640/1 to 640/8 are illegal and in violation of the said Act. In this regard, the petitioner has already presented a representation, dated 23.11.2015 to the respondents 1 to 4 and other authorities, to cancel the patta by explaining the shortcomings of their action and the damages caused to the public. Though the fourth respondent informed that they will inspect and arrange for discussion/enquiry on 24.11.2015 in the presence of even the petitioner, none of the respondents 1 to 4 inspected the spot. Again the fourth respondent requested the petitioner to attend enquiry on 07.01.2016, which was not at all conducted and there was mere adjournment of the case without mentioning the date. In spite of several complaints by even other affected parties, the respondents 1 to 4 did not take any action. Though the third respondent-RDO initiated action under Section 145 Cr.P.C., as per letter dated 20.01.2016 and called for enquiry, the same was not held as stated therein. The devotees to the Madha Church will celebrate from 25th December to 2nd January of every calendar year, thereby, they are now being affected for access to the Church and the public even suffer to reach the Hospital because of the encroachment. Hence, the petitioner has filed this Writ Petition for the above relief.

4. Heard both sides.

5. In view of the order that is going to be passed in this Writ Petition, it is not necessary to issue notice to the respondents 5 to 7.

6. Taking into consideration the above facts and circumstances of the case, this Court directs the petitioner to give a copy of the said representation, dated 23.11.2015 to the third respondent-RDO, along with a copy of this order, within a period of one week from the date of receipt of a copy of this order, and on receipt of the same, the third respondent-RDO is directed to issue notice to the petitioner and other necessary parties, including the respondents 5 to 7 and after affording an opportunity of hearing to all of them, pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of eight weeks thereafter. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the third respondent-RDO to decide the same while disposing of the said representation, on merits.

7. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cs
Copy to

1. The District Collector,
Vengikkal Village and Post,
Thiruvannamalai District,
Thiruvannamalai.
2. The District Revenue Officer,
Collectorate Building,
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Thiruvannamalai.
4. The Tasildar,
Anna Salai,
Thiruvannamalai District,
Thiruvannamalai.

सत्यमेव जयते

W.P.No.8357 of 2016

+lcc to Mr.K.R. Santhanagopal, Advocate, S.R.No.15093
+lcc to the Government Pleader, S.R.No.14964

KGK(CO)
EU(24/03/2016)

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