

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.9183 of 2016

& W.M.P.No.8188 of 2016

1. Karuppan
2. Ponmalari

... Petitioners

Vs.

1. The District Collector,
Villupuram District,
Collectorate Office, Villupuram.
2. The Tashildar,
Kallakurichi,
Kallakurichi Taluk,
Villupuram District.
3. The Dy. Tashildar,
Kallakurichi, Kallakurichi Taluk,
Villupuram District.
4. Mrs.Radha
5. Natarajan
6. Mrs.Chandragandhi

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to forbear the respondents 2 to 4 from cancelling the pattas issued in favour of the petitioners and further evicting the petitioners from their property situated at 594/16 & 17, Ayyar Street, Sithalur, Kallakurichi Taluk, Villupuram District, without following due process of law.

For Petitioners : Mr.S.Venkatesh

For Respondents : Mr.V.S.Ramesh, Govt. Advocate for
RR-1 to 3

ORDER

The petitioners have filed this Writ Petition praying for issuance of a Writ of Mandamus to forbear the respondents 2 to 4 from cancelling the pattas issued in favour of the petitioners and further evicting the petitioners from their property situated in Survey Nos.594/16 & 17, Ayyar Street, Sithalur, Kallakurichi Taluk, Villupuram District, without following due process of law.

2. The first petitioner has filed the affidavit on behalf of the second petitioner, who is the grandmother of the first petitioner and she is aged about 62 years. The first petitioner is the owner of Survey No.594/16, Ayyar Street, Sithalur, Kallakurichi Taluk, Villupuram District of an extent of 0.120 Sq.Mtrs and the second petitioner is the owner of Survey No.594/17, Ayyar Street, Sithalur, Kallakurichi Taluk, Villupuram District of an extent of 0.111 Sq.Mtrs and both the survey numbers are approximately 5-1/2 cents. The first petitioner is a school teacher and having one son and daughter and living with his family, along with his elder brother and their family and the grandmother (second petitioner).

3. It is further stated by the petitioner that the fifth respondent is the husband of the sixth respondent and they are the petitioners' neighbours. It is the grievance of the petitioner that the fifth respondent is trying to grab the petitioners' property through the second to fourth respondents. On 02.03.2016, the third and fourth respondents came to the petitioners' property and informed that the fifth respondent requires the property and threatened the petitioners and their family members to vacate the property. The first petitioner immediately lodged a complaint to the Sub-Inspector of Police, Varanjaram Police Station, Villupuram District, against the respondents 2 to 6, but the Police omitted the name of the respondents 2 to 4 and gave CSR.No.35 of 2016 only against the respondents 5 and 6 and the FIR was also not registered. The first petitioner also sent a representation, dated 02.03.2016 to the first respondent by mentioning that the first petitioner and his grandmother (second petitioner) are the owners of the property and without issuing notice and conducting enquiry, the patta cannot be cancelled. Since the said representation is pending, the petitioner has filed the Writ Petition for the above relief.

4. Heard both sides. 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 4 to 6.

5. Though this Court is not inclined to give positive direction as sought for by the petitioners, taking into consideration the factual aspects of the matter, this Court directs the petitioners to give a copy of the said representation, dated 02.03.2016, along with a copy of this order, to the first respondent, within a period of one week from the date of receipt of a copy of this order. On receipt of such representation, the first respondent is directed to conduct enquiry through the second and third respondents and after giving an opportunity of personal hearing to the petitioners and necessary parties, including the respondents 4 to 6, the first respondent is directed to 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 case and it is for the first respondent to decide the same.

6. With the above observations and directions, the Writ Petition is disposed of. No costs. W.M.P. is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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Copy to

1. The District Collector,
Villupuram District,
Collectorate Office, Villupuram.
2. The Tashildar,
Kallakurichi,
Kallakurichi Taluk,
Villupuram District.
3. The Dy. Tashildar,
Kallakurichi, Kallakurichi Taluk,
Villupuram District.

+1 cc to Government Pleader sr.16329
+1 cc to Mr.S.Venkatesh Advocate sr.15660

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