

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.12.2016

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15970 of 2013
and
and M.P.No.1 of 2013

K.Rajappan

... Petitioner

Vs

1. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Namakkal District
Namakkal.
3. The Sub Collector,
Namakkal District,
Namakkal.
4. The Revenue Divisional Officer,
Namakkal.
5. The Assistant Director,
Animal Husbandry Department,
Namakkal.
6. The Tahsildar,
Namakkal Sub Division,
Namakkal.

7. R. Kanagaraj * ... Respondents

* (Impleaded as per the order of this Court dated
05.12.2016 in M.P.No.1 of 2015 in W.P. No.15970 of 2013)

Prayer: Writ petition filed under Article 226 of the
Constitution of India praying to direct the issue of Writ
Mandamus directing the respondents to consider the petitioner's
representations dated 11.03.2009, 26.06.2009, 11.12.2009 and

07.06.2013 in the light of the recommendation given by the 6th respondent vide his report in Na.Ka.014148/2010/B3, dated 09.01.2010 and G.O.Ms.No.854, Revenue Ni.Mu 1(2) Department dated 30.12.2006 and the connected G.O.s and grant free house site patta to the petitioner in respect of the house site in Survey No.33/2, S.Uduppam Village, Namakkal Taluk and District.

For Petitioner : Mr.R.Soundararajan,
For Respondents : Mr.S.Navaneetham,
Addl. Govt. Pleader for RR1 to 6
Mr.N.Umapathy
for impleaded respondent

O R D E R

The petitioner herein claims to be in possession of the land in Survey No.33/2 in S.Uduppam Village, Namakkal Taluk and District for more than twenty years. According to the petitioner, he constructed a building in the above said land under the bonafide impression that the said land has classified as "Natham" in the revenue records. According to the petitioner, the Government issued G.O.Ms.No.854, Revenue Department, dated 30.12.2006, whereby it directed the revenue officials to issue free pattas to those who are in occupation of the Government land for more than ten years. According to the petitioner as he was also in occupation of the above said land he claims that he is also entitled for benefits of the above said G.O.Ms.No.854, dated 30.12.2006, the petitioner also places reliance on G.O.Ms.No.43, Revenue Department dated 29.01.2010, whereby the Government once again issued orders to the Revenue authorities to issue house sites patta to those who are in occupation of the Government lands for more than 10 years. According to the petitioner by placing reliance on the aforesaid Government Orders, he has sent repeated representations on 11.03.2009, 26.06.2009 and 11.12.2009 reiterating his request to issue patta in his name. According to the petitioner, his representation was forwarded by the 6th respondent in his proceedings dated 09.01.2010 to the 4th respondent calling upon the 4th respondent to submit a report. However, there was no orders passed their on. Therefore, on 09.02.2011, the petitioner has sent a representation to the 2nd respondent to reiterate his request to grant patta in his name, which was also forwarded by the 2nd respondent to the 6th respondent. Thereafter, there was no response received by the petitioner. While so, the 5th respondent has issued a notice dated 19.04.2013 directing the petitioner and others to vacate the land which are in their occupation. The petitioner said to have sent a reply on 22.05.2013 to the 5th respondent and requested him to give no objection in his favour so as to enable him to get a patta. According to the petitioner on 03.06.2013, the 6th

respondent along with officials have inspected the lands which are in occupation of the petitioner and given an ultimatum land occupied by him. Such an action has been taken by the 6th respondent on the basis of communication sent by the 5th respondent for removal of encroachment. Subsequently on 07.06.2013, the petitioner submitted petition to the 3rd respondent in the Annual Jamabhandhi and requested to issue house site patta in his name. In spite of the above representations as there was no response from any of the respondents, the petitioner has come forward with this Writ Petition.

2. The learned counsel appearing for the petitioner would contend that the petitioner has been in continued possession of the said land in question for a period of twenty years and therefore the respondents ought to have considered the same in the light of the recommendations made by the 6th respondent in his report dated 09.01.2010 for issuance of patta in his name. According to the counsel for the petitioner, the non consideration of the claim of the petitioner by the official respondents warrant issuance of amendment by this Court. The learned Additional Government Pleader appearing for the official respondents would only contend that the representation made by the petitioner will be considered by the official respondents on merits and in accordance with law.

3. The learned counsel appearing for the 7th respondent, who was subsequently impleaded in the writ petition as brought to the notice of the Court that the 7th respondent has already filed a writ petition before the Hon'ble Division Bench of this Court in W.P.No.33200 of 2013 in which the writ petitioner is arrayed as 4th respondent. The Division Bench of this Court by order dated 01.08.2014 passed the following order :

"2. It appears from the submissions of the learned counsel for the private respondents that these proceedings have been stayed further and there are certain interim orders passed in the writ proceedings.

3. We are thus of the view that the only direction to be passed in the present writ petition is that the action in accordance with law would be taken in pursuance of the proceedings dated 24.05.2013 of the Tahsildar, Namakkal unless there is a interdict of competent Court in which case naturally the parties would await the decision of the superior Court."

4. By placing reliance on the above order passed by the Hon'ble Division Bench of this Court, the learned counsel for the 7th respondent would submit that already a direction was issued by the Division Bench of this Court to remove the

encroachments made in Sengodampalayam, S.Uduppam Village, Puthuchathiram Union, Namakkal Taluk, wherein the lands occupied by the petitioner in this Writ Petition is also situated. It is only in pursuance of the order passed by the Hon'ble Division Bench of this Court, the official respondent has issued a notice to the writ petitioner herein for removal of encroachments. According to the learned counsel for the 7th respondent, the prayer in this writ petition need not be considered.

5. I have heard the submissions of the counsel on either side and perused the records.

6. Having regard to the above submissions made on behalf of both sides and the order dated 01.08.2014 passed by the Hon'ble Division Bench of this Court in W.P.No.33200 of 2013, which was filed by the 7th respondent herein, in which the writ petitioner is also arrayed as 4th respondent.

7. This Court without expressing any opinion on merits would only direct the 2nd respondent District Collector to consider the representations made by the petitioner seeking issuance of patta in his name after offering an opportunity of hearing to the petitioner, the 7th respondent as well as other persons concerned and thereafter pass an appropriate orders on merits and in accordance with law. Until the 2nd respondent passes an order on the claim made by the writ petitioner as mentioned above, the 2nd respondent or the other respondents shall not dispossesses the petitioner from the land which in his occupation. The 2nd respondent shall pass such orders within a period of four months from the date of receipt of a copy of this Order. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CCC)

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Sub-Assistant Registrar

To

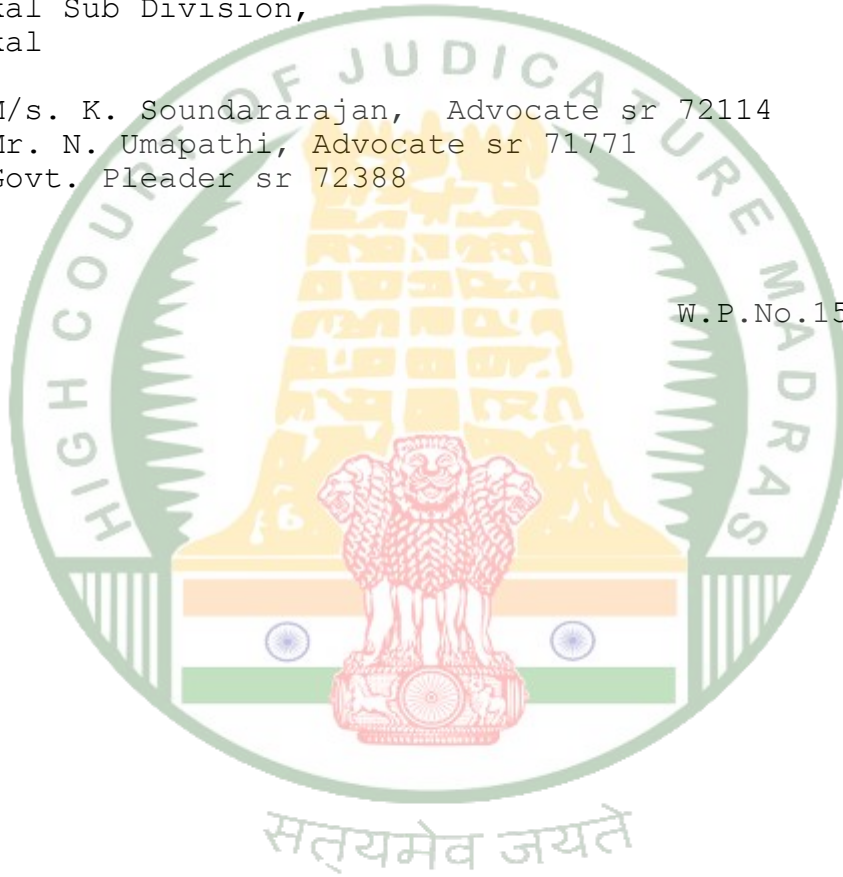
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Namakkal

+1 CC to M/s. K. Soundararajan, Advocate sr 72114
+1 CC to Mr. N. Umapathi, Advocate sr 71771
+1 CC to Govt. Pleader sr 72388

W.P.No.15970 of 2013

SCD(CO)
sp/10/2



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