

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. No.9924 of 2017
and W.M.P.No.10920 of 2017

Sasikumar .. Petitioner

-vs-

1.The Tahsildar,
Virudachalam,
Cuddalore District.

2.The Village Administrative Officer,
Nemam Village, Virudachalam Taluk,
Cuddalore District.

3.The Sub-Registrar,
Pennadam, Virudachalam Taluk,
Cuddalore District.

4.Vijayalakshmi

5.Bhavani

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent to remove the encroachment made by the 5th respondent in the Government Poramboke Land in S.No.97/1, Nemam Village, Virudachalam Taluk, Cuddalore District, by cancelling the Patta No.226.

For Petitioner : Mr.S.Jaganathan

For Respondents : Mr.R.Vijayakumar,
Addl.G.P.

O R D E R

(Order of the Court was made by M.Sundar, J.)

Subject matter of this writ petition pertains to land comprised in S.No.97/1 in Nemam Village, Virudhachalam Taluk, Cuddalore District.

2.It is the case of the writ petitioner that patta for the abovesaid land had been granted in favour of the fourth respondent before us incorrectly. It is the further case of the writ petitioner that pursuant to such patta, the fourth respondent, in some arrangement with the fifth respondent, has put up construction therein, which, according to the writ petitioner, is obstructing his access to his agricultural lands.

3.Be that as it may, as of today, the above said land (land comprised in S.No.97/1 in Nemam Village, Virudhachalam Taluk, Cuddalore District) is a patta land. It is not in dispute that Patta No.226 has been granted in favour of the fourth respondent before us.

4.Though the prayer in the writ petition is to remove the alleged encroachment and also to cancel the patta, at the time of hearing, the learned counsel for the writ petitioner abridges / restricts the prayer and says that he would be satisfied if the first respondent is directed to dispose of the writ petitioner's representation dated 19.01.2017, which is enclosed at page 31 of the typed set of papers. It is to be noted that the relevant acknowledgements have also been enclosed and the same are at page 33.

5.Only on a decision being taken on cancellation of patta, can the question of encroachment be looked into. In other words, if it continues to be a patta land, it cannot be construed as an encroachment and the question of construing it as an encroachment will arise only if the patta is cancelled.

6.We direct the first respondent before us to dispose of the above said representation of the writ petitioner dated 19.01.2017. However, as the representation pertains to cancellation of patta, it is imperative that the first respondent puts all concerned on notice, particularly respondents 4 and 5 (private respondents) before us, as it is the case of the writ petitioner that patta has been wrongly / illegally granted in favour of the fourth respondent.

7.The first respondent shall dispose of the abovesaid representation dated 19.01.2017 as expeditiously as possible and in any event, within six (6) weeks from the date of receipt of a copy of this order, after putting all concerned on notice and affording adequate opportunity to all concerned (particularly private respondents 4 and 5 before us) and in accordance with law.

8.Writ petition is, accordingly, disposed of. No costs. Consequently, W.M.P.No.10920 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

1.The Tahsildar,
Virudachalam,
Cuddalore District.

2.The Village Administrative Officer,
Nemam Village, Virudachalam Taluk,
Cuddalore District.

3.The Sub-Registrar,
Pennadam, Virudachalam Taluk,
Cuddalore District.

+1cc to Mr.E.Jaganathan, Advocate, S.R.No.39974

+1cc to the Government Pleader, S.R.No.39678

W.P.No.9924 of 2017

PA(CO)
RS(13/06/2017)

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