

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.22579/2017 & WMP.Nos.23701 & 23702/2017

1.Govindammal
2.R.Ravichandran
3.K.Lakshmi
4.R.Mala
5.R.Ekambaram
6.V.Murali
7.Murugan
8.Aburoobam

... Petitioners

Versus

1.The Government of Tamil Nadu
rep.by its Secretary, Land Administration
Fort St George, Chennai 600009.
2.The District Collector
Tiruvallur District, Tiruvallur.
3.The Revenue Divisional Officer
Ponneri, Tiruvallur District.
4.The Tahsildar
Ponneri, Tiruvallur District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the order passed by the 2nd respondent in Na.Ka.No.2793/2017/A2 dated 30.06.2017 and quash the same and further direct the respondents to issue patta to the petitioner's property.

For Petitioners : Mr.S.Parthasarathy

For RR 1 to 4 : Mr.P.Sanjay Gandhi, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ petition is taken up for final disposal. Mr.P.Sanjay Gandhi, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4.

2 The petitioners, in the affidavit filed in support of this writ petition would aver among other things, that they are the residents of Devampattu village, Ponneri Taluk, Tiruvallur District and they are in possession and occupation of the lands with small superstructures at S.No.65/2 and 190/4 for more than 40 years of the said superstructures and also subjected to statutory levies. The petitioners would further state that the lands in S.No.65/2 is classified as "Meikkal Poramboke" [grazing ground/land] and out of 220 persons who had encroached and put up constructions between the years 2006 and 2012, 169 persons have been issued with House Site Patta and the petitioners are yet to be issued with pattas and a decision has been taken under the provisions of the Tamil Nadu Land Encroachment Act, 1905, to dispossess the petitioners alleging encroachment in respect of the said land and challenging the same, the petitioners filed statutory appeal before the 2nd respondent who without proper application of mind to the relevant materials, had dismissed the appeal with a further direction, directing the revenue officials to remove the encroachment and therefore, the petitioners are constrained to approach this Court by filing this writ petition.

3 Mr.S.Parthasarathy, learned counsel appearing for the petitioners would submit that even as per the impugned order, out of 220 persons, who are in occupation, 169 persons have been issued with the house site pattas and since the petitioners are similarly placed, in all fairness, patta should have been issued to them also ; in stead, a decision has been taken to dispossess them and hence, the petitioners are left with no other option except to approach this Court by invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

4 Per contra, Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents 1 to 4 would submit that the 2nd respondent after taking into consideration various facts and circumstances and perusal of the record, had rightly reached the conclusion to remove the encroachment and would further add that the petitioners are having an effective alternate remedy under section 10-A of the Tamil Nadu Land Encroachment Act, 1905, in the form of revision before the Commissioner of Land Administration and as such, the writ petition is not maintainable on the ground of availability of alternate remedy and prays for the dismissal of the same.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 The 2nd respondent in the impugned order, has taken note of the fact that in Devanampattu Village S.No.65/2, out of 7.89.5 Hectares, 5.30.0 Hectares are classified as "Meikkal Poramboke" and 220 persons have put up superstructures and are residing there between the years 2006 and 2010 and in the year 2012, 169 persons have been given house site patta and the balance 25 persons had encroached and put up superstructures and 17 persons have put up shops and therefore, ordered removal of the encroachment. In the considered opinion of the Court, the petitioners are having an effective alternate remedy under section 10-A of the Tamil Nadu Land Encroachment Act, 1905, and therefore, they are at liberty to pursue the same. Section 10-B of the said Act also provides for stay pending decision in the appeal or revision and the petitioners are at liberty to file revision along with petition for stay before the Commissioner, Land Administration.

7 In the result, the writ petition is disposed of and the petitioners are at liberty to file revision petitions under section 10-A of the Tamil Nadu Land Encroachment Act, 1905, before the Commissioner, Land Administration, Chepauk, Chennai-5, along with petitions for stay under section 10-B of the said Act, within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the same, the Commissioner, Land Administration, shall entertain the revision petitions, if the papers are otherwise in order and the said official is at option, either to take up the petitions for stay or the main revision petitions itself and give a disposal on merits and in accordance with law within a further period of twelve weeks thereafter and communicate the decision taken, to the petitioners and till such time, the respondents 2 to 4 shall defer further decision of the removal of the encroachments on the part of the petitioners.

8 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Government of Tamil Nadu
rep.by its Secretary, Land Administration
Fort St George, Chennai 600009.
- 2.The District Collector
Tiruvallur District, Tiruvallur.
- 3.The Revenue Divisional Officer
Ponneri, Tiruvallur District.
- 4.The Tahsildar
Ponneri, Tiruvallur District.

Copy to:-

The Commissioner
Land Administration,
Chepauk, Chennai-600 005.

+ 1 C.C. to M/S.S.PARTHASARATHY Advocate, SR.NO.60658

+1 C.C. to Govt.Pleader, SR.NO.61724

WP.No.22579/2017

AK (CO)
ADD 06.10.2017

सत्यमेव जयते

WEB COPY