

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.02.2017
CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 24874 of 2013
& M.P.No.1 of 2013
& W.M.P.No.35744 of 2017

S.Kavunuthurai

.. Petitioner

Vs.

1. The District Collector,
Perambalur, Perambalur District.
2. The Revenue Divisional Officer,
Perambalur, Perambalur District.
3. The Tahsildar, Vepanthattai Taluk,
Perambalur, Perambalur District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to provide patta to the petitioner allotted land viz., to an extent of 2 acres in Survey No.281, Eraiyur Village, Perambalur District within the time frame that may be fixed by this Court.

For Petitioner : M/s.K.Thilageswaran
For Respondents : Mr.S.Diwakar, Spl.G.P.

O R D E R

The petitioner has filed this Writ Petition praying to direct the respondents to provide patta to the land allotted to the petitioner viz., to an extent of 2 acres in Survey No.281, Eraiyur Village, Perambalur District within the time frame that may be fixed by this Court.

2. The learned counsel for the petitioner has submitted that in the year 1997, the District Administration of Trichy(now Perambalur District) has orally allotted to an extent of 1.5 to 4 acres of revenue promboke land to each family in the Eraiyur village, Perambalur District, for doing agriculture, whereas the petitioner has been allotted 2 acres of land at Survey No.281. From 1979 onwards, the petitioner is paying revenue for the lands and he is in continuous possession of the land by doing agriculture.

3. On 15.05.2013, the 3rd respondent-Tahsildar has forwarded a recommendation by his proceedings in Na.Ka.No.A1 9136/79, dated 15.05.1983 to the 2nd respondent Revenue Divisional Officer, for issuance of patta to the said land. The said fact is revealed by a communication dated 30.03.1984 in Na.Ka.2/KA/63357/83, issued by the Director of Survey and Revenue Department.

4. The petitioner has cultivating the said land since 1999. On 14.12.2012, some revenue officials started to measure his cultivated field and tried to plant some flags. Therefore, the petitioner protested the same and gave representation to the 1st respondent / District Collector. Thereafter, there was no threat for the petitioner. Again, during the year 2013, the officials threatened the petitioner to vacate the said land. Hence, the petitioner has filed the present Writ Petition with the aforesaid prayer.

5. The learned Special Government pleader has filed a detailed counter affidavit and as directed by this Court the 2nd respondent appeared before the Court and filed his report. The petitioner is not at all continuously cultivating in the aforesaid land. They have leased out the land for a period of 3 to 6 years, to local farmers of Namaiyur and Eraiyur Villages by way of unregistered local agreement on collection of lease amount, which is against the Government norms.

6. The petitioner had encroached the revenue poramboke land in question at Eraiyur Revenue Village in Veppanthattai taluk and cultivated the same for some period prior to the year 1996 and they were issued 'B' memos. On verification, the District Revenue Officer, Perambalur District, cancelled the 'B' memos on 15.02.1996 and therefore all the encroachments were removed. The lands in question is not at all legally allotted to the petitioner. Moreover, the petitioner has not made any representation for the issuance of patta, therefore, this petition is not maintainable and is liable to be dismissed.

7. By considering the aforesaid facts and circumstances of the case, it is seen that the land was allotted to the petitioner in Survey No.281 in Perambalur District and he was not in possession of the said property. The petitioner cultivated in the said land for some period prior to the year 1996 and 'B' memo was issued. After verification, the District Revenue Officer, Perambalur District cancelled the 'B' memo on 15.02.1996 and therefore, all the encroachments were removed. Therefore, the petitioner was not in possession of the said land. Further, on the report of the second respondent, it reveals that the petitioner has leased out the aforesaid land to local farmers by way of unregistered legal agreement on

collection of lease amount. But there was no cultivation in the aforesaid land for the years between 2013 and 2015. Moreover, the petitioner has not produced any records (viz., revenue records) before this Court, for showing his possession of the land or cultivation in the same. However, the respondent Department also had not produced any document to show that the aforesaid land has been taken by them .

8. In view of the above discussion, this Court is of the view that the petitioner has not made any representation before the first respondent for grant of patta. Hence, at this stage the Writ Petition cannot be entertained. Moreover, the petitioner is not in possession of the said property and hence, this Court is inclined to pass the following order:

i) The petitioner shall make a representation to the first respondent within a period of four weeks from the date of receipt of a copy of this order.

ii) Thereafter, the first respondent/ Collector shall consider the representation and pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks. and

iii) Till such time, the status quo as on date, shall be maintained by the parties.

15. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

pvs

To

1. The District Collector,
Perambalur, Perambalur District.

2. The Revenue Divisional Officer,
Perambalur, Perambalur District.

3. The Tahsildar, Vepanthattai Taluk,
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+1 cc to the Government Pleader sr 10876

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