

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.SUNDAR

W.P.No.44456 of 2016
and
W.M.P.Nos.38300 & 38301 of 2016

- 1.Thangam
- 2.Kuppu
- 3.Nagammal
- 4.Chinnaponnu
- 5.Banumathy
- 6.K.Pushpa
- 7.Jaarinabi.R
- 8.Noorjahan
- 9.Selvakani
- 10.Pachaiyammal
- 11.R.Vasantha
- 12.Kasthuri
- 13.Vijayalakshmi
- 14.Thulasingham
- 15.Thanalakshmi

... Petitioners

-Vs-

1. District Collector,
Villupuram 605 402.
2. Revenue Divisional Officer,
Highways Department,
Villupuram District,
Villupuram 605 602.
3. Divisional Engineer,
National Highways Department,
Villupuram District,
Villupuram 605 602.
4. Assistant Divisional Engineer,
National Highways Department,
Villupuram District,
Villupuram 605 602.

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent dated 24.11.2016 in Na.Ka.Aa.No.7/14244/2013 and quash the order passed therein and consequently direct the first respondent to issue patta in favour of the petitioners herein in respect of the property at S.No.52 in Thiruannamalai Main Road, Vengandur village, Villupuram District in favour of the petitioners herein.

For Petitioners : Ms.V.J.Latha

For Respondents : Mr.M.K.Subramanian
Government Pleader

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner in this writ petition under Article 226 of the Constitution of India seeks to assail the proceedings of the District Collector dated 24.11.2016, in terms whereof, re-classification of the land in question as Grama Natham has been cancelled and the original categorization of Road poramboke has been restored.

2. Even at the inception, the petitioners was made conscious to the appeal provision. But she insisted on proceeding with the matter and resultantly, the right of appeal was waived.

3. We have heard the learned counsel for the petitioners and the learned Government Pleader for the respondents.

4. The substratum of the case of the petitioners is that since the land was converted as Natham land, but no pattas were issued, the petitioners had sought issuance of pattas, to which there was no impediment, in view of the nature of the land. In this behalf, the learned counsel for the petitioners referred to the Division Bench judgment of this Court in The Executive Officer, Kadathur Town Panchayat, Harur Taluk, Dharmapuri District v. Swaminathan and others, (2004) 2 MLJ 708 to the effect that the land classified as Grama Natham does not vest with the Government or the Town Panchayat, and patta cannot be cancelled summarily at the instance of the resolution passed by the Panchayat. A person in possession of the Grama Natham land thus would not summarily be evicted and the question of title would have to be decided.

5. The facts of the present case are that the land in question was not originally Grama Natham. A reading of the impugned notice shows that on perusal of the records, it has been found that the land was Road poramboke and pattas were directed to be issued to the petitioners herein after converting the land as Natham. It has also been found that the area is on NH 234, which goes to Thiruannamalai and is a National Highway, running between Villupuram, Mangalore, Southern side Perumbakkam, Soorapattu village Road, East and West, runs on the Thiruannamalai National Highways Road, Northern side No.807, Soorapattu Anniyur District Road, meets and it is a junction where four roads meet and the above mentioned place is encroached by the shops and houses in the year 2008. The land in question actually belongs to the Highways Department and could not have been converted as Natham land without the approval of the Executive Engineer, National Highways, who had neither recommended nor was consulted before conversion of the land into Natham. In fact, the Revenue Divisional Engineer and the Assistant Engineer, Highways, Villupuram have recommended necessary legal steps to be taken to remove the encroachments.

6. It appears that the conversion was done at the relevant time. At that time, widening of the road was not envisaged. But in our view, as rightly observed even in the impugned order, such an act could not have been done, keeping in mind that the land belonged to Highways Department. Merely because the Highways Department did not object when, in the same survey number, a Panchayat school was constructed, is not a ground for deemed consent of the Highways Department.

7. The area encroached, interestingly, had been found not only to have been used by the encroachers for their residence, but it was also used for commercial purpose by construction of shops. The National Highways Department took a stand that the land was required for development of Highways, running from Villupuram and Thiruannamalai. It is in these circumstances that the District Collector had directed the original entries to be restored, in our view, rightly so. Once that is the accepted position, there cannot be any issue of pattas to the occupants of the area and the authorities concerned have been directed to follow the rules so far as removal of encroachment is concerned.

8. We may note the observations made in the impugned order by the Assistant Revenue Divisional Officer and the Divisional Officer that most of the encroachers have their own residential land and these lands are being used for commercial purposes.

9. In view aforesaid, we find no infirmities in the impugned order as to cause our interference, in exercise of the jurisdiction under Article 226 of the Constitution of India.

10. The writ petition is dismissed. No costs. Consequently, W.M.P.Nos.38300 and 38301 of 2016 are also dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Villupuram 605 402.
2. The Revenue Divisional Officer,
Highways Department,
Villupuram District,
Villupuram 605 602.
3. The Divisional Engineer,
National Highways Department,
Villupuram District,
Villupuram 605 602.
4. The Assistant Divisional Engineer,
National Highways Department,
Villupuram District,
Villupuram 605 602.

+1cc to Mr.V.J.Latha, Advocate, S.R.No.349

+1cc to the Government Pleader, S.R.No.131

MSM(CO)
CA(10/01/2017)

W.P.No.44456 of 2016