

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18705 of 2004

And

W.P.M.P.No.22335 of 2004

R.Balakrishnan

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Sathankulam Taluk,
Thoothukudi District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent in connection with the impugned order passed in Na.Ka.D2/18146/04 dated 1.4.2004 and quash the same in so far as the petitioner is concerned and consequently direct the first respondent to issue Patta to the petitioner herein for the land in Survey No.880/13, situated in Narthenkurichi Village, Sathankulam Taluk, Tuticorin District.

For Petitioner : Mr.M.Padmanabhan
for M/s.G.Thalaimutharasu

For Respondents : Mrs.K.Bhuvaneswari
Government Advocate

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records on the file of the first respondent in connection with the impugned order passed in Na.Ka.D2/18146/04 dated 01.04.2004 and to quash the same in so far as the petitioner is concerned and consequently, direct the first respondent to issue Patta to the petitioner herein for the land in Survey No.880/13, situated in Narthenkurichi Village, Sathankulam Taluk, Tuticorin District.

2.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents.

3.The petitioner is the resident of Sathankulam Taluk, Tuticorin District. He joined Indian Naval Service, Kattabomman Naval Base, Vidyanarayana as Barber. The petitioner and his family for three generations have been residing in the land in Survey No.880 – 10, 11, 12 and 13 located in Northankurichi Village and the petitioner also paid

all necessary taxes prescribed by the Government and he continued to be in possession of the property. In one portion of the land, the petitioner constructed a house and is living there.

4. Whiles, the petitioner's family was threatened by some residents of Northankurichi village. The said facts was brought to the knowledge of the Sub-Inspector of Police, Sathankulam Police Station and a thorough investigation was also made by the Police. Thereafter, on 08.02.2004, the very same persons tried to occupy and evict the petitioner and his family members from the land. All the atrocities were brought to the notice of the District Superintendent of Police and since immediate action was taken through the Revenue Officials, the petitioner and his family members are living peacefully in the said lands. However, inorder to avoid such kind of problems in future, the petitioner made application for grant of patta to the first respondent on 10.02.2004. But without considering the same, the first respondent passed the impugned order dated 01.04.2004 stating that since the petitioner was not in possession of Survey No.880/13, patta cannot be granted in his favour. However, the Revenue Authorities accepted that he and his brother is in possession of the property in Survey Nos.880/10, 880/11

and 880/12 and further stated that the general

public had fenced the vacant land in Survey No.880/13 and thereafter, the encroachment of the general public was also removed on 11.02.2004. Challenging the order of the first respondent dated 01.04.2004, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner would submit that the action of the respondent is against the principles of natural justice.

6.Per contra, the learned Government Advocate appearing for the respondents filed a counter and submitted that the petitioner was not in possession of Survey No.880/13 and the said property was encroached by the people of Northankurichi by putting up fence and however, the encroachment was removed by the Village Administrative Officer in the interest of general public. Considering the fact that the petitioner is not in possession of the said survey number, the application made for grant of patta was rejected and there is no substance in the claim of the petitioner.

7.On perusal of the above said facts, I am not inclined to

interfere with the order passed by the Authority since the entitlement of patta is only for land. Already the petitioner possessed some lands and is enjoying the property. In view of the above, the writ petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is also closed.

05.09.2017

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Sathankulam Taluk,
Thoothukudi District.

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M.DHANDAPANI,J.
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