

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :20.09.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.10601 of 2015
and MP.No.1&2 of 2015

- 1.S.Haridoss
- 2.G.Subramania Naicker
- 3.S.Susseelammal
- 4.S.Ashokan
- 5.M.Arumugam
- 6.N.Dilli
- 7.M.Udayakumar
- 8.P.Somasundaram
- 9.K.Mathialagan
- 10.S.Kousalya
- 11.K.Narasimha Perumal
- 12.S.Valarmathi(Died)
- 13.T.Kannabiran
- 14.Selvan. Shanmugam
- 15.Selvi.Divya (minor) .. Petitioners

(P13 to P15 substituted as LR's of deceased
P.12 S.Valarmathi as per order
dated 04.12.2015 in MP.NO.3 of 2015)

vs

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Tahsildar,
Sholinganallur Taluk,
Taluk Office,
Sholinganallur, Chennai. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ, order or direction in the nature of writ, calling for the records in Na.Ka.No.11906/2014/Aa1 dated 30.01.2015 on the file of the 2nd respondent and Quash the same and direct the respondents to issue patta for the lands in Survey No.176, Assessed Punja Waste, Karapakkam Village, Shollinganallur Taluk, Kancheepuram District to and in favour of the petitioners.

For Petitioners : Mr.S.Sadasharam
For Respondents : Mrs.A.Shrijayanthi
Special Government Pleader

ORDER

The order of rejection passed by the 2nd respondent in proceedings dated 31.07.2015 in respect of the claim of the writ petitioner for grant of patta is under challenge in this writ petition.

2. The order impugned states that the writ petitioners have not produced any documents to show that they are the owners of the property described in the writ petition or they are entitled for grant of Patta under the provisions of Tamil Nadu Patta Passbook Act, 1983. Thus, the claim of the writ petitioner for grant of Patta was rejected by the Tahsildar, Sholinganallur Taluk, Kancheepuram District in proceedings dated 31.07.2015. This apart, it is stated that the said land belongs to the Government falls within the radius of 32 KM of City and no Patta can be granted even as per the Government orders in force.

3. Mrs.D.Nirmala, The Tahsildar, Sholinganallur Taluk, is present before this Court along with the files. On verification of the files, it was brought to the notice of this Court that the total area of 15.30 hectares are classified as Government Poromboke land and out of which 4.05 hectares are allotted for burial ground and 3.24 hectares are allotted for statistics Department and remaining 8.05 hectares are allotted as open land for the purpose of free flow of water from Bankingkom Canal. The Tahsildar also informs this Court that the said area is to be kept vacant for the purpose of free flow of water and to avoid all disasters more specifically during the rainy season. The land was classified as 'Tharisu' as per the revenue records and kept vacant for the purpose of welfare of the public at large and for free flow of water in that locality.

4. The learned Special Government Pleader appearing for the respondents informed this Court that the photographs now enclosed in the typed set of papers filed along with the writ petition are no way connected with the lands which is claimed in the present writ petition. The writ petitioners have not doing any cultivation in respect of the Government land and the Government land is protected in all respects and there is no encroachment as of now. The Tahsildar also ensures that the Government authorities will not permit any encroachment in that locality, in view of the fact that 4.05 hectares were already allotted for the purpose of burial ground and 3.24 hectares were allotted to the statistics Department and the remaining land measuring 8.05 hectares are kept vacant for the purpose of free flow of water from bankimkom Canal. This being the classification, this Court is of an opinion that the writ petition has filed based on certain incorrect facts.

5. The petitioners state that they are cultivating the land, however it is informed by the respondents that there is no cultivation is going on in that locality and the land is under the possession of the Government and there is no encroachment as of now. Thus, the facts cited in the present writ petition are absolutely incorrect and based on such incorrect and false averments, the present writ petition has been filed. First of all, the portion of the land for burial ground and another portion for Statistics Department were allotted in the year 2011 as per the G.O.Ms.No.21. Even before that the land in question was under the possession of the Government and there was no cultivation by the writ petitioners after 2011. There was no cultivation by any of the persons including the writ petitioners and it is under the possession and enjoyment of the Government.

6. Under these circumstances, this Court is of a doubt that on what basis, the present writ petition is filed and in the affidavit it is stated that the writ petitioners are continue in occupation and enjoyment of the land and they are doing irrigation activities. It is repeatedly stated in the writ affidavit that the writ petitioners are in continuous possession and enjoyment of the property. This being the factum, this Court is of an opinion that the present writ petition has been filed with incorrect facts. However, the writ petitioners have not approached this Court with clean hands and

accordingly, they are not entitled for any relief as such sought for in the present writ petition.

7. It is made clear that the encroachment of Government properties to be construed as grave offense. The District Administration is bound to identify all such encroachments and evict the encroachers by invoking the provisions of Tamil Nadu Land Encroachment Act, 1905 and by following the procedures. The encroachments in Government lands or water bodies ought to be evicted without any further delay, in view of the fact that such encroachments are causing large scale disasters and further, the lands belong to the Government are to be utilised for the welfare of the public at large.

8. On account of the encroachments in the water bodies and water resources, people are facing disasters during rainy season. It is duty mandatory on the part of the District Administration to ensure that all such encroachments in government lands and water bodies and water resources are evicted in the interest of public at large. There cannot be any leniency or misplaced sympathy in respect of any such encroachments in water bodies, water resources and Government poromboke lands. Thus, the District Collector / 1st respondent is bound to conduct periodical review meeting and issue appropriate orders to all the officials concerned to identify such encroachments and initiate further action to evict all such encroachments from water bodies and water resources and Government Poromboke lands. In the event of failure on the part of the officials concerned, the District Collector is bound to initiate prosecution as well as disciplinary proceedings against all such officials under the Discipline and Appeal Rules.

9. Time and again, the Apex Court has emphasized that the water resources and water bodies are to be protected. The encroachers in the water bodies are to be treated as offenders. They are causing great inconvenience to the Society at large. This apart, the encroachments creates lot of other consequences for all other citizens of that locality. Thus, it is the duty mandatory on the part of the State to ensure that such Government land and properties are protected for the welfare of the public at large and few Greedy men, who are encroaching such Government lands and water bodies are dealt with in accordance with the law by following the procedures contemplated.

10. Under these circumstances, this Court is of an opinion that the writ petitioners have approached this Court with incorrect facts and further they are not in possession and enjoyment of the said land and there is no cultivation activity in the said land. The land was already under the control of the Government and there is no encroachment as of now and this being the factum of the case, no relief can be granted in the present writ petition. Though, this Court was intended to initiate criminal prosecution for perjury and to impose cost on the petitioners, has decided to take a lenient view and the writ petitioners are hereby warned not to indulge in such activities in future.

11. Accordingly, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

20.09.2018

sk/tta

Index:Yes

Internet:Yes

Speaking order

To

1.The District Collector,
Kancheepuram District,

Kancheepuram.

2.The Tahsildar,
Sholinganallur Taluk,
Taluk Office,
Sholinganallur, Chennai.
S.M.SUBRAMANIAM J.
sk

W.P.No.10601 of 2015

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