

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3361 of 2018
And
W.M.P.No.4113 of 2018

Mathiyalagan

.. Petitioner

Versus

1.The District Collector,
Vellore District,
Vellore - 9.

2.The Tahsildar,
Anaicut Taluk,
Vellore District.

3.The Chairman,
Tamil Nadu Generator and Distribution
Corporation Limited,
N.P.K.K.R. Maligai,
No.44, Anna Salai,
Chennai - 600 002.

4.The Superintendent of Engineer,
TANGEDCO,
Tirupatthur Electricity Distribution Circle,
Thirupathur,
Vellore District.

5.The Junior Engineer,
Operation and Maintenance,
TANGEDCO, Pallikonda,
Vellore District.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the
Constitution of India praying for the issuance of a Writ of

Mandamus, forbearing the respondents, officials, men agents, subordinates or any one acting under them in any manner interfering with the peaceful possession and enjoyment of the property in S.No.296/A measuring 80 cents situated at Keezhachur Village, Anaicut Taluk, Vellore District, consequently, the second respondent issue patta in favour of the petitioner based on the petitioner representation dated 5.2.2018.

For Petitioner : Mr.M.Rajendiran

For Respondents-1&2 : Mr.R.S.Selvam,
Government Advocate.

For Respondents-3to5 : Mr.M.Varunkumar

O R D E R

The relief sought for in this writ petition is to forbear the respondents, officials, men agents, subordinates or any one acting under them in any manner interfering with the peaceful possession and enjoyment of the property in S.No.296/A measuring 80 cents situated at Keezhachur Village, Anaicut Taluk, Vellore District, consequently, the second respondent issue patta in favour of the petitioner based on the petitioner's representation dated 5.2.2018.

2. The learned counsel, appearing on behalf of the writ petitioner, vehemently contended that the writ petitioner and his family members are in peaceful possession and enjoyment of the property in question for the past many years and the respondents are disturbing the possession and enjoyment of the writ petitioner and therefore, the writ petitioner is constrained to move the present writ petition.

3. The writ petitioner belongs to poor Scheduled Caste Agricultural family and in occupation of the Government poramboke land comprising Survey No.296/A measuring 80 cents situated at Keezhachur Village, Anaicut Taluk, Vellore District. The claim of the writ petitioner is that he inherited the property from his forefathers and the land is in their possession and enjoyment for the past more than four decades. The writ petitioner cultivated in this property without any hindrance for the past many years. Further, the writ petitioner states that he has no other source of income in respect of the abovesaid lands. The father of the writ petitioner passed away in the year 1997. Thereafter, the writ petitioner is cultivating the land and leading his life.

4. This apart, the Revenue Department has sent a letter to the brother of the writ petitioner for considering the case of the writ petitioner for grant of patta. This apart, the

representation sent by the writ petitioner was also pending for consideration. Therefore, the respondents must be restrained from interfering with the possession and enjoyment of the property, which is under possession of the writ petitioner.

5. The learned Government Advocate, appearing on behalf of the respondents 1 and 2, opposed the said contention of the learned counsel for the writ petitioner, by stating that admittedly, the land in occupation of the writ petitioner is a Government poramboke land and the writ petitioner is an encroacher. The learned Government Advocate further contended that the writ petitioner was employed as a Medical Officer in the Medical Department and retired from service. Therefore, he is not entitled for any free land under the Government Scheme. A retired Medical Officer cannot be construed as a poor landless person. The writ petitioner, being an encroacher, has no locus standi to claim patta in respect of the Government poramboke land, which is under his occupation. Thus, the writ petitioner is liable to be evicted under the provisions of the Tamil Nadu Land Encroachments Act, 1905.

6. This Court is of an opinion that admittedly, the writ petitioner was holding the post of Medical Officer in the Medical Department of the State of Tamil Nadu. The writ petitioner was retired from service in the year 2008. The conduct of the public servant in this regard is to be deprecated.

7. At this juncture, the learned counsel, appearing on behalf of the writ petitioner, states that the writ petitioner filed this writ petition for the benefit of his deceased brother and his wife. The present writ petition is filed enabling the wife of his deceased brother. In that case, the writ petitioner, being a retired public servant, working in the cadre of Medical Officer, cannot plead that he is a landless poor person and the land belongs to Government is to be assigned to him.

8. Admittedly, the land, under the occupation of the writ petitioner and his family members, is the Government poramboke land. Thus, for all purposes, the writ petitioner and his family members are to be termed as 'Encroachers'. Thus, they are liable to be evicted by invoking the provisions of Tamil Nadu Land Encroachments Act, 1905.

9. Free house sites can be granted by the Government only by formulating the Scheme in favour of the landless poor people. Even in case, such a policy decision is taken by the Government, the Scheme is to be implemented uniformly to all the eligible persons and there cannot be any discrimination in respect of considering the cases. In the absence of any such claim or

violation by the Government, a person who is in occupation of the Government poramboke land, cannot claim patta and the competent authorities cannot issue patta in this regard in favour of few individuals at their choice. The authorities competent cannot issue patta in violation of the rules in this regard. Only in the event of a Scheme formulated by the Government, no patta can be issued for the encroachers, who are in possession of the Government land without any permission or assignment.

10. The Government Officials are bound to protect the Government lands and the Government properties. The Government Officials are further duty bound to identify the encroachments and remove the same without any delay or without showing any misplaced sympathy. In respect of the present land, it is brought to the notice of this Court that the District Collector has already transferred the said land in favour of the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) for the installation of a Sub Station for the benefit of the entire people in that locality. When the District Collector has already transferred the land in favour of the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) for installation of a Sub Station, the writ petitioner has no locus standi to file a writ petition for a direction to grant of patta. Admittedly, the writ petitioner is in occupation of the Government poramboke land and the same is stated in paragraph-3 of the affidavit filed by the writ petitioner in support of the present writ petition.

11. This apart, it is brought to the notice of this Court that the writ petitioner is a retired Medical Officer and probably, he may be practicing even after his retirement.

12. This being the factum of the case, this Court is not inclined to show any leniency or misplaced sympathy in respect of the claim set out by the writ petitioner for grant of patta in respect of the land belongs to the Government.

13. The District Collector, Vellore District, in this regard, is directed to conduct review meetings with the Subordinate Officials and to identify the encroachments within his jurisdiction in the District. The District Collector has to issue suitable orders to the Subordinate Officials to ensure appropriate actions against all encroachments in his jurisdiction by invoking the provisions of Tamil Nadu Land Encroachments Act, 1905. It is the duty of the District Collector to ensure that the Government lands and public properties are protected intact. Any violation in this regard is identified, then suitable prosecutions and disciplinary proceedings are to be initiated against all the erring Officials.

14. The public officials are bound to protect the Government lands and it is their primary duty. In the event of any negligence, dereliction of duty or collusion or corrupt activities, then all such Government Officials and the public servants are to be prosecuted and disciplinary proceedings are to be initiated against all such officials by the competent authorities concerned.

15. Thus, the District Collector has to conduct periodical review meetings and action reports in this regard must be invited from the Subordinate Officials to ensure that the Government lands are protected properly and in accordance with law. In the event of any failure on the part of the District Collector, then the State should monitor the same and actions are to be initiated against the District Collector also, if necessary.

16. This being the legal principles to be followed, this Court is of an opinion that the relief, as such, sought for in this writ petition by the writ petitioner, cannot be granted and the respondents are bound to initiate appropriate immediate actions for eviction of all such encroachers and utilise the lands for the welfare of public at large and in the interest of the public.

17. Thus the writ petition is devoid of merits and accordingly, it stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/--
Assistant Registrar(CS V)

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सत्यमेव जयते
Sub Assistant Registrar

Svn

To

1.The District Collector,
Vellore District,
Vellore - 9.

WEB COPY

2.The Tahsildar,
Anaicut Taluk,
Vellore District.

3.The Chairman,
Tamil Nadu Generator and Distribution
Corporation Limited,
N.P.K.K.R. Maligai,
No.44, Anna Salai,
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4.The Superintendent of Engineer,
TANGEDCO,
Tirupatthur Electricity Distribution Circle,
Thirupathur,
Vellore District.

5.The Junior Engineer,
Operation and Maintenance,
TANGEDCO, Pallikonda,
Vellore District.

+1cc to Mr.M.Rajendiran, Advocate SR.NO.54627
+1cc to Government Pleader SR.NO.55371
+1cc to Mr.M.Varunkumar, Advocate SR.NO.54784

SSI(CO)
sm:28.8.2018

WP 3361 of 2018

सत्यमेव जयते

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