

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7230 of 2014
and
M.P.No. 1 of 2014

P.Balasubramanian

... Petitioner

-vs-

1.The District Collector,
Kanchipuram District at Kanchipuram.

2.The Tahsildar,
Sriperumbudur Taluk,
Kanchipuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus to forbear the respondents herein, their men and subordinates from in any manner interfering with the petitioner's peaceful possession and enjoyment of the land comprised in Grama Natham Survey No. 211/2, Navalur Madura, Mocheri Village, Sriperumbudur Taluk, Kancheepuram District, measuring to an extent of 1254 Sq.ft., and consequently direct the respondents to consider the request of the petitioner for the grant of patta for the above said land.

For Petitioner :: Mr.K.Premkumar

For Respondents :: Mrs.A.Srijayanthi
Special Government Pleader

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O R D E R

The relief sought for in this writ petition is to forebear the respondents herein, their men and subordinates from in any manner interfering with the petitioner's peaceful possession and enjoyment of the land comprised in Grama Natham Survey No. 211/2, Navalur Madura, Mocheri Village, Sriperumbudur Taluk, Kancheepuram District, measuring to an extent of 1254 Sq.ft., and consequently direct the respondents to consider the

request of the petitioner for the grant of patta for the above said land.

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner is in possession and enjoyment of the land comprised in Grama Natham Survey No.211/2, Navalur Madura, Mocheri Village, Sriperumbudur Taluk, Kancheepuram District measuring to an extent of 1254 sq.ft. The petitioner claims that he was in possession and enjoyment of the said land for several decades. The petitioner continued in possession from their forefathers and accordingly, he is entitled for grant of patta by the authorities under the Patta Pass Book Act. Though the petitioner has narrated that he purchased the land from one Mr.Y.Abdullah by way of sale deed dated 21.03.2007 registered in Document No.2245/2007 in S.R.O. Padappai and in possession and enjoyment of the said property, the petitioner

had been assessed to house tax and the panchayat concerned granted building plan approval in favour of the predecessor of the petitioner to construct the building. However on 13.11.2013, the second respondent and his men came to the premises and demolished the hut belonging to the writ petitioner without any notice by stating that the land belongs to the Government. The petitioner though produced the Registered sale deed to establish his ownership and title, the second respondent failed to look into the same and demolished several other houses constructed in the very same location. At the outset, it is contented that the petitioner is the absolute owner of the property and possessing title over the said property and was in possession and enjoyment of the same.

3. The stand taken by the writ petitioner is self-contradictory that the petitioner claims that he purchased the said land from Mr.Y.Abdullah through a registered sale deed dated 21.03.2007. Now, he pleaded that it is a grama natham land and therefore the petitioner is entitled for patta. If the writ petitioner is the owner of the property and possessing title, then he cannot say that the land is a grama natham and he was in possession and enjoyment of the grama natham land entitled for grant of patta. On the other hand, the petitioner states that he is the owner of the land and possessing title on the other hand, the prayer sought for is that the patta should be granted in his favour.

4. In view of the contradiction in this regard made by the writ petitioner, this Court directed the Tahsildhar, Sriperumbudur Taluk to be present along with the records and Mr.T.Ramesh, Tahsildhar, Sriperumbudur Taluk, who is present before this Court, assisted the learned special Government

Pleader. It is informed that the land is an Aadidraavidar gramanatham and belongs to the Government. This apart, the land had already been handed over to the Slum Clearance Board in the year 2010 for the purpose of constructing the building. The possession was also handed over to the Slum Clearance Board authorities and they have commenced the constructions and now completed and the building and is in occupation of many families.

5. The learned counsel appearing on behalf of the writ petitioner cited the judgment of this Court in the case of K.Elangovan Vs. The District Collector and others reported in 2014-1-L.W.430 is as follows:

9. In a recent decision of a learned single Judge of this Court reported in 2012 (2) CTC 315, State of Tamilnadu, rep. By the Collector, Virudhunagar v. Madasami, the nomenclature of the land was considered and found at paragraph No.14 as follows:

"14. The factual aspects discussed and found by both the Courts below in respect of the nature of the property viz., Gramanatham is not denied by the Appellant. Supporting the same, the learned Government Pleader (CS) would submit in his argument that the property was classified as Gramanatham in the settlement register of the year 1923 and the property being a Gramanatham, the Government alone be the owner of the property. If, the argument of the learned Additional Government Pleader (CS) is accepted, the Suit filed by the plaintiffs would have no legs to stand and the Appeal should have been consequently allowed. For deciding such crux, we must firstly consider the character and qualities of a land classified under 'Gramanatham'. There is no dispute that wherever the lands classified as Natham or Natham Poramboke or Gramanatham are only meant a Gramanatham. The Gramanatham lands were classified and allotted for village people to use them as house sites or for any other purposes for storing his hay and manure or as a smithy or as a brick-klin or as a place for weaving, etc."

Thus, from the above decision, it could be seen that the lands whether are classified as natham poramboke or grama natham, they are only meant to be classified as grama natham alone."

6. First of all, the said judgment cited by the learned counsel for the petitioner relates to Kannamanaickanur Village,

Marulpatty, Udumalpet Taluk, Coimbatore District. The property which is the subject matter in the present writ petition is in keelkattalai near by Sholinganallur which is a prime locality falling adjacent to OMR road, Chennai.

7. The said village at Keelkattalai falls within Madipakkam revenue Village, Sholinganallur Taluk within Pallavaram municipality, which is almost adjacent to the Chennai Corporation limits and therefore the land situated nearby Chennai Corporation cannot be construed as a village for the purpose of grant of patta to the person, who states that he is in possession and enjoyment of the property. Thus, the principles applied in the above judgment in respect of a remote village cannot be compared in respect of the land situated nearby Chennai city. Thus, the judgment cited by the learned counsel for the petitioner have no application in respect of the facts and circumstances of the present case.

8. The second respondent Tahsildar filed the counter affidavit stating that the writ petitioner has subverted and misused the legal process for his personal gain. The writ petitioner is an encroacher and was in illegal possession and enjoyment of the Government land. Further, the writ petitioner has suppressed the facts in respect of the classification of the lands and claiming title and ownership in respect of the properties belonging to the Government land under S.No.211/2 in Navalur Madura, Mocheri Village, Sriperumbudur Taluk is classified a "Adi Dravidar Natham" in 151, Navalur Village Accounts. The above land was kept vacant and subsequently, transferred to Tamil Nadu Slum Clearance Board. The details with respect to the classification of the lands in Survey Nos.211 are as follows:

Survey No.	Extent	Title
211/1	12.88.0 Hectare	Tamil Nadu Agricultural Marketing Board
211/2	6.78.0 Hectare	Tamil Nadu Slum Clearance Board
211/5	0.19.0 Hectare	G.G.P. (usage as Road)
211/6	0.48.0 Hectare	Tamil Nadu Slum Clearance Board
211/7	1.05.0 Hectare	Grazing Ground Poromboke
211/8	0.08.0 Hectare	G.G.P. (usage as Road)

9. The land in S.No.211/2 is not only classified as 'Adi Dravidar Natham' in the revenue records, but it stands in the name of Tamil Nadu Slum Clearance board. At the request of Tamil Nadu Slum Clearance Board for construction of housing units, the Government has transferred the ownership of the aforesaid land in S.No.211/2 in favour of Tamil Nadu Slum Clearance Board. The vacant land was handed over to the Tamil Nadu Slum Clearance Board as early as on 30.06.2010 and delivery receipt issued by the Tamil Nadu Slum Clearance Board to the District Collector shows the proof of the same. Thereafter, the Slum Clearance Board has mutated the revenue records and the name of the Tamil Nadu Slum Clearance Board has been included in the Adangal extract for the fasli year 1427 in respect of the land in Survey No.211/2. The Tamilnadu Slum Clearance Board has also put up more than 2048 residential units in which 1784 residential units were allotted in favour of the beneficiaries and they are presently residing there. The beneficiaries are those who were displaced due to the deluge and flash flood which created a havoc in the city of Chennai during December 2015. Thereafter, at no stretch of imagination, it could be contended by the writ petitioner that he is in possession and enjoyment of the property in question.

10. The present status of the land in question also has been narrated by the second respondent in para 7 of the counter affidavit is extracted hereunder.

'7. After transfer of the land in favour of the Tamil Nadu Slum Clearance Board in the year 2010, the petitioner had put up the hut to make it as if he is residing there by purchasing the land in question from a third party. In fact, when the land in question was transferred in favour of Tamil Nadu Slum Clearance Board during the year 2010, there was no such hut belonged to the petitioner at all. As the petitioner had encroached upon the land in question by putting up a hut, it was removed by the authorities of the Tamil Nadu Slum Clearance Board at the time of commencement of construction of the residential units. As mentioned above, the encroachers, who have encroached upon the Adyar river and who were displaced due to the deluge caused during December 2015, were accommodated in such flats. Therefore, it is respectfully submitted that even as on the date of filing the writ petition, the petitioner was not in possession of the land in question and therefore, a Mandamus need not be issued as prayed for. The petitioner is not in possession of the land in question and therefore, the question of

dispossessing him does not arise. Consequently, the claim of the petitioner that the respondents have to follow due process of law to evict him also cannot be countenanced'

11. This Court is of an opinion that the writ petitioner though claims title of the said land based on the sale deed, he prays for an issuance of patta by the authorities. The land grabbers in the city and sub-urban areas are falsely creating documents including power of attorney, sale deeds etc. and thereby, attempting to grab the private lands as well as the Government land. On account of huge increase in land value, these crimes are frequently witnessed by the authorities also. The revenue officials, registration department are to be vigil in respect of maintaining the public lands. The public lands situated within the Chennai Corporation and near by sub-urban areas are valuable and such public lands are to be utilised only for the public purpose and in the interest of the public and for future policy decisions, which are to be taken for the public welfare. The respectful District Collectors and the Revenue officials must be vigilant in maintaining such public lands. In the event of identifying any encroachment of such public lands, immediate actions are to be initiated for eviction by following the procedures contemplated under the provisions of Tamilnadu Land Encroachment Act, 1905. The District Collectors are directed to conduct periodical review meetings in this regard and appraise these officials for immediate actions in this regard. In the event of failure, competent authorities are bound to initiate appropriate disciplinary actions against such officials, who are all committing negligence or dereliction of duty in respect of maintaining such public lands for the public interest. The District Collectors are to be vigilant in this regard and the officials concerned are to be instructed to maintain and initiate appropriate actions against all such encroachments within their jurisdiction.

12. This Court is of an opinion that irrespective of the classification of the land, when it is a Government land and the property falls near by Chennai Corporation, this Court cannot issue any direction for grant of patta in favour of an individual. In this view of the matter, the writ petitioner has not established any ground for the purpose of considering the relief, as such sought for in this writ petition. The writ petitioner sought for to forbear the respondents from dispossessing the petitioner. The petitioner as of now is not in possession and enjoyment of the mentioned property. The Slum Clearance Board had already constructed multi-storey building, and near about 2048 residential units were constructed in that location out of which 1784 families are residing there. Such being the factum of this case, no further adjudication needs to

be entertained in respect of the grounds raised in this writ petition.

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

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

msv

To

1.The District Collector,
Kanchipuram District at Kanchipuram.

2.The Tahsildar,
Sriperumbudur Taluk,
Kanchipuram District.

+1cc to Mr.K.Premkumar, Advocate SR.No.42243
+1cc to Government Pleader SR.No.42336

W.P.No.7230 of 2014
and
M.P.No. 1 of 2014

VP (CO)
GN(18/07/2018)

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