

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.365 of 2018

G.Arumugham

... Petitioner

vs.

1. The Government of Tamilnadu,
Represented by its Secretary,
Department of Revenue,
Fort St. George,
Chennai - 600 009.
2. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
3. The District Collector,
Kancheepuram District, Kancheepuram.
4. The Revenue Divisional Officer,
O/o. Sub Collector,
Chengalpattu,
Kancheepuram District.
5. The Tahsildar,
Thiruporur Taluk,
Thiruporur,
Kancheepuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus calling for the records of the 4th respondent and quash the order passed by him in Na.Ka.No.1097/2017/AA/ dated 20.09.2017 and directing the respondents to assign and to issue patta in the name of the petitioner for the land enjoyed by him in S.No.406 of 26 Kolathur Village, Thiruporur Taluk, Kancheepuram District to an extent of 3 acres 33 1/2 cents in accordance with G.O.Ms.No.1750/Rev/dated 13.05.1963 or any other G.O is inforce and in accordance with RSO-15 clause -24 which facilitates assignment of lands to ex-servicemen with free of cost.

For Petitioners	: M/s. M. Jayapal Rajan
For Respondents	: Mr.A.Shrijayanthi
	Spl.Government Pleader

O R D E R

The order passed by the Sub-Collector, Chengalpattu in proceeding dated 20.09.2017 rejecting the claim of the writ petitioner for grant of patta in respect of the land in S.No.406 of 26, Kolathur Village, Thiruporur Taluk, Kancheepuram District to an extent of 3 acres 33 1/2 cents in accordance with G.O.Ms.No.1750/Rev/dated 13.05.1963 or any other G.O is in force and in accordance with Revenue Standing Order-15 clause -24 which facilitates assignment of lands to ex-servicemen with free of cost.

2. The learned counsel for the petitioner states that, the petitioner is an Ex-Service man and he was serving in Indian Army as Soldier and retired from the service on 30.09.1992 in the rank of Subedar in No.JC 143256 L in the regiment of Army. The writ petitioner states that, his service in the Indian Army was meritorious and he got exemplary award with 7 medals for his distinguished service.

3. It is contended by the petitioner that, at the time of retirement he submitted an application on August 1992 before the higher authority namely Captain/Officer Commanding with the request to allot some cultivating land to him under the scheme of allotment of cultivating land to landless serving soldiers. The application was forwarded to the District Collector, Kancheepuram District and subsequently, the action was taken for identification of suitable land for cultivation.

4. On the basis of the order received from the District Collector and the Sub-Collector, Chengalpattu, the revenue authorities allotted and identified land at Kolathur Village in S.No.406 to an extent of 3 acres 33 1/2 cents and asked the petitioner to take possession of the land. Accordingly, the petitioner under the scheme of allotment of cultivating land to landless serving soldiers accepted the same and has taken possession of the said land.

5. The petitioner claims that he is in continuous possession and enjoyment of the land as an absolute owner and paid the land tax in respect of fasli years from 1402 to 1407. The petitioner submitted an application for grant of patta along with the documents and the same was rejected by the authorities. The learned counsel for the writ petitioner states that, the similar request of the other soldiers were considered by the authorities concerned. Thus petitioner is also entitled for the same benefit on par with the other soldiers. The petitioner has referred some other similar cases wherein the benefit of assigning of land was granted to them.

6. Thus it is contended that, the petitioner is also entitled for the grant of patta in respect of 3 acres and 33 1/2 cents land at Kolathur Village. The Learned Special Government Pleader appearing on behalf of the respondent

opposed the contentions by stating that, the land now described in the present writ petition is falling within the jurisdiction of Greater Chennai Corporation. The Government already issued orders not to grant any patta within the radius of 32 kms in Chennai City.

7. Thus the patta cannot be granted in favour of the writ petitioner in respect of the land described in the present writ petition. The land in question is situated in Old Mahabalipuram road falling nearby OMR and the land value has increased exorbitantly. This apart, the land in question falls nearby the IT corridors. It is the fast developing area wherein large number of IT companies are developing and Educational Institutions are also functioning. This apart, the land in question is classified as "Central Government land". Thus the writ petitioner is not entitled for grant of patta in respect of the government lands.

8. The Learned Special Government Pleader states that, when the classification of the land states that it is a "Central Government land", no patta can be granted by the Competent Authorities. This apart, as per government order in G.O.1135/Rev/17.3.62 , Revenue Department dated 17.03.2015, there is a ban for issuing patta in respect of the land described in the present writ petition. Thus the rejection of patta is in order.

9. The learned counsel for the writ petitioner states that, no such G.O is available in the government file. May that it be, this court is of an opinion that, the land in question falls nearby the IT corridor and nearby Kelambakkam in OMR road which is the fast developing area and the land cost in that area is mounting and allotment of 3 acres and 33 ½ cents is certainly impracticable and such allotments can never be encouraged by the courts. The land is classified as "Central Government land", and the same is to be utilized for the purpose of the public at large for the construction of Central Government offices or for implementing any welfare schemes for the public residing in that locality.

10. Contrarily, if the Central Government lands are allotted in the favour of individuals for cultivation the same will not be appropriate. Thus, this court cannot consider the case of the writ petitioner for grant of patta in respect of the land measuring 3 acres and 33 ½ cents, more specifically nearby Chennai City area. However, the said land if at all with the possession of the writ petitioner, the Competent Authorities are bound to evict the encroachments made in this regard by all the persons concerned.

11. The learned counsel for the writ petitioner brought to the notice of this court that, nearby 7 acres of land are under encroachment by the local villagers. If the statement is true, then the District Collector, Kancheepuram District, is

directed to inspect the said area and by verifying the revenue records initiate all further action to evict all such encroachments from the government land.

12. The District Collector is directed to convene the review meeting with the officials concerned within the period of 2 weeks and identify all such encroachments in respect of the government lands, water bodies and water resources in that locality. In the event of any lapses or negligence or dereliction of duty on the part of the officials concerned, then the District Collector is bound to initiate appropriate disciplinary action against all such officials.

13. The District Collector is directed to institute all appropriate proceedings to evict the encroachers from the government land, water bodies and water resources in that locality by following procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905 and the Tamil Nadu Protection of Tanks and Eviction of Encroachments Act, 2007, whichever is applicable. Thus it is made clear that, all encroachments in that locality are to be evicted and the public land must be kept open for the welfare of the public and for the implementation of all future welfare schemes to be implemented by the State for the welfare of the public.

14. With these factum of the case, the following orders are passed:-

i) The impugned order passed by the 4th respondent in proceeding Na.Ka.No.109/2017/AA dated 20.09.2017 is confirmed and the claim of the writ petitioner stands rejected.

ii) The District Collector, Kancheepuram District/3rd respondent is directed to convene review meetings within a period of 2 weeks from the date of receipt of a copy of this order and issue suitable orders to the officials concerned to identify all such encroachments in that locality.

iii) The District Collector, Kancheepuram District is directed to initiate all further actions to evict the encroachers without any undue delay and by following procedures contemplated under the Encroachment Act.

iv) In the event of any negligence or dereliction of duty on the part of the officials concerned, suitable disciplinary actions are to be initiated to all such officials under Discipline and Appeal Rules.

v) The District Collector, kancheepuram District is directed to issue suitable circulars to all the officials concerned to protect the public government land, government properties, water bodies and water resources in the manner prescribed in law.

15. With these directions the writ petition stands disposed of. There shall be no order as to costs.

pkn

Sd/-
Assistant Registrar(CS VI)

// True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Government of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai - 600 009.
2. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
3. The District Collector,
Kancheepuram District, Kancheepuram.
4. The Revenue Divisional Officer,
O/o. Sub Collector,
Chengalpattu,
Kancheepuram District.
5. The Tahsildar,
Thiruporur Taluk,
Thiruporur,
Kancheepuram District.

+ 1 CC TO THE GOVT. PLEADER, SR 65489

+ 1 CC TO MR.M.JAYAPAL RAJAN, ADVOCATE SR 65202

KR/5/10/18

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