

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 7552 of 2018

C.Arjunan

..Petitioner

vs

1. The District Collector,
Chennai District,
Chennai.

2. The Tahsildar,
Aminjikarai Taluk Office,
Aminjikarai, Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider and dispose the representation of the petitioner dated 08.01.2018 by directing the respondents to issue patta in favour of the petitioner for his property.

For Petitioner : Mr.S.Janarthanan

For Respondents : Mrs.A.Shrijayanthy
Spl.Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to consider and dispose the representation of the petitioner dated 08.01.2018 by directing the respondents to issue patta in favour of the petitioner in his property. The affidavit filed in support of the writ petition states that, the petitioner is the absolute, undisputed and exclusive owner of the property situated in Girama natham land to an extent of 1200 sq ft, No.6, Natesan Nagar (West), 2nd Main Road, Virugambakkam, Chennai-1. The petitioner claims that the property is the ancestral property and he possess the same for more than 60 years and he is residing in that property along with his family.

2. The contention of the writ petitioner is that, he filed an application for grant of patta in respect of the property

under his possession. However, the said application has not been considered at all. Thus, he is constrained to move this present writ petition. The only claim of the writ petitioner is that, he is the owner of the property and he is under possession and enjoyment of the same for many years.

3. The Learned Special Government Pleader appearing on behalf of the respondents relying on the counter affidavit filed by the second respondent - Tahsildar, informed this Court that, the Sub Inspector of Survey had inspected the property bearing Door No.6, 2nd Main Road, Natesa Nagar (West) comprised into T.S.No.134 of Block No.2 of Senchery village, Aminjikarai Taluk. The said land is a narrow strip of land situated on the western side of Block No.2 abutting Nerkundram village on its western side. The Sub Inspector of Survey has further reported that, the said land stands registered in the Town Survey Land Records as follows:

Town	:	Senchery
Block No.	:	2
T.S.No.	:	134
Old S.No.	:	75 part, 74/1A part, 73/1C3A participate
Classification	:	Circar Poromboke (Govt. Poramboke)
Extent	:	Hec.Ares.Sq.metres 00 71 00.0
Adangal	:	Gramanatham
How the holding is utilized	:	Street
Remarks	:	Corporation of Chennai (Natesa Nagar West Street)

4. It is evident from the records available in the office of the Tahsildar that the writ petitioner has encroached upon the portion earmarked for road. The said lands are classified as "Circar Poromboke"- "Gramanatham" in Adangal records and usage of the land is furnished as street. In the remarks column, it is stated that the land vests with Corporation of Chennai as (Natesa Nagar West Street). The usage of the said land is furnished as "street". The request of the petitioner for grant of patta for the portion of the land encroached by him cannot be granted by the Tahsildar.

5. It is contended by the Learned Special Government Pleader that, the writ petitioner has not produced any valid document to establish that he is the owner of the property. On verification of the revenue records, the land was classified as "Circar Poromboke". Even in respect of Gramanathan, the Government had issued a one time order in G.O.Ms. No.192 dated 08.06.2012 and G.O.Ms. No.174 dated 13.06.2013 and action was initiated by the

Tahsildar of erstwhile Egmore-Nungambakkam Taluk to grant "Thoraya pattas" to the persons who are residing in the lands stand classified as "Gramanatham". The said one time Government order also lapsed on 30.09.2013 and therefore, no patta can be issued in favour of the petitioner in respect of the portion of the land which is under his encroachment.

6. This Court is of an opinion that, if at all the writ petitioner has encroached the poromboke land which is earmarked as street. The respondents are bound to evict such encroachments and use the public land as path way for the benefit of all the people in that locality. If the portion of the street is earmarked as a street, then it is duty mandatory on part of the respondents to evict the encroachers enabling the public at large to use the area as street. Thus, the respondents 1 and 2 are directed to initiate action to evict all the encroachments in respect of the government poromboke land and utilize the land for the benefit of the public at large. In respect of the claim of the writ petitioner for grant of patta, the same cannot be considered in view of the fact that, the writ petitioner has not established even a semblance of the legal right so as to consider the relief as such sought for in the present writ petition. Even for issuing a direction to consider the representation, it is mandatory that the writ petitioner has to establish a legal right in the absence of any legal right no such writ can be issued for direction.

7. Accordingly, the following orders are issued:-

i) The relief as such sought for in this writ petition stands rejected.

ii) The respondents 1 and 2 are directed to identify the encroachments in that locality in respect of the government poromboke lands, water bodies and water resources.

iii) The respondents 1 and 2 shall initiate action immediately to evict all such encroachers from the Government land without any lapse of time.

iv) All such public lands are to be protected in all aspects for the welfare of the people and for implementation of the public schemes or to use as a street for the public.

8. Accordingly, the writ petition stands disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

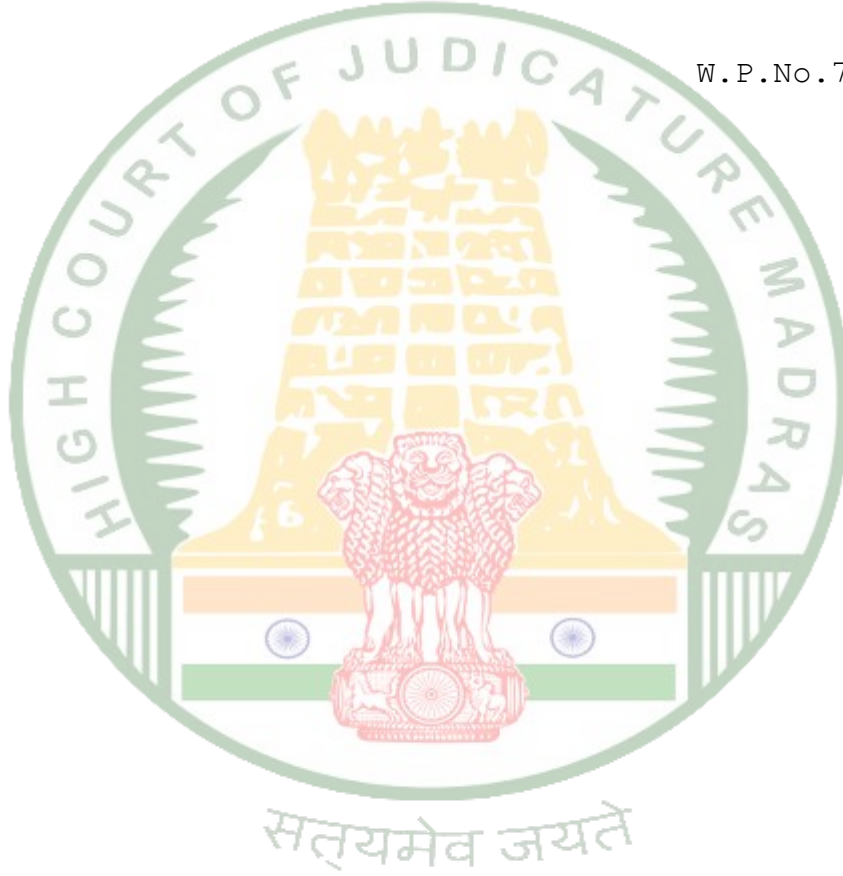
To

1. The District Collector,
Chennai District,
Chennai.
2. The Tahsildar,
Aminjikarai Taluk Office,
Aminjikarai, Chennai.

+1 cc to Govt.Pleader,sr.65481.

Ev(co)
krd 23/10

W.P.No.7552 of 2018



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