

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.30654 of 2017
and
W.M.P.No.33563 of 2017

V.Rajasekar ... Petitioner

Vs

1.The District Collector
Collectorate
Namakkal District
Namakkal.

2.The Tahsildar
Taluk Office
Namakkal.

3.The Revenue Division Officer
Namakkal
Namakkal District.

4.The Village Administrative Office
Kumari Palayam Panchayat
Namakkal District.

5.The Block Development Officer (Special Officer)
Kumari Palayam Panchayat
Office at Namakkal Taluk Office
Namakkal.

6.Ramasamy

7.Kaveri

8.Meena

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records from the file of the 1st respondent leading to the impugned order dated 08.11.2017 in Mu.Mu.20968/2017/L5 and quash the same and consequently direct the respondents 1 to 5 to remove the encroachment in S.No.4/1 Sankaram Palayam Village

classified as "Tope Proamboke" within a time to be fixed by this Court.

For Petitioner : Mr.C.Jagadish

For Respondents: Mr.R.Udhayakumar,
Addl. Govt. Pleader [R1 to R5]
Mr.S.Senthilnathan [R6 to R8]

O R D E R

[Order of the Court was made by M.SATHYANARAYANAN, J]

By consent, the writ petition is taken up for final disposal.

2. The present writ petition has been filed as a public interest litigation and according to the petitioner, he is a permanent resident of Sankaram Palayam Village and in his village, there are about 200 families were residing and their primary avocation is agriculture. The petitioner would further aver that in his village, there is a poromboke land in S.No.4/1 admeasuring to an extent of 1.27.5 hectare, which has been classified as 'Thope Poromboke' as per the revenue records and in the said lands there are 400 standing palm trees.

3. The grievance expressed by the petitioner is that the 6th respondent had encroached upon a small portion of the land in the said survey number and put up a hut and due to negligence, fire broke out and the hut got damaged. 7th respondent is the daughter of the 6th respondent and the 8th respondent is the daughter-in-law of the 6th respondent and since all of them are in possession and enjoyment of the land, which has been classified as 'Thope Poromboke' by way of encroachment, the petitioner submitted representations dated 12.06.2017 and 24.06.2017 and however, no orders have been passed and therefore, the petitioner has filed W.P.No.17877 of 2017 and this Court, vide order dated 14.07.2017, has directed the concerned officials to consider and dispose of the representation within a stipulated time.

4. The learned counsel appearing for the petitioner would submit that the first respondent, after taking note of the above cited order passed by this Court and also taking into consideration the materials placed before him in the form of the report of Kumaripalayam Village Administrative Officer and also the statement of the petitioner, found that the occupation of the private respondents with respect to some other portion of the land in Kumaripalayam Village in S.No.4/1 cannot be termed as an objectionable one and in respect of the persons, who were in long possession, rules are available to regularise the same and to grant patta and therefore, rejected the request of the

petitioner. Challenging the legality of the said order dated 08.11.2017, the present writ petition is preferred.

5. The learned counsel appearing for the petitioner has drawn the attention of this Court to the Revenue Standing Order 15 and would submit that since the lands are classified as "Thope Poromboke", it cannot be reclassified at all and in the case on hand, reclassification has been done only to somebody and prays for interference. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the counter affidavit of the first respondent dated 15.03.2018 and would submit that the District Collector, Namakkal, after conducting an enquiry, had issued proceedings in favour of the encroachers and prays for appropriate direction.

6. Per contra, the learned Additional Government Pleader appearing for the official respondents has drawn the attention of this Court to the Revenue Standing Order and would submit that after taking note of the relevance facts and circumstances, a conclusion has been reached that the land in occupation of the private respondents cannot be termed as objectionable and therefore, appropriate decision has been taken to grant them patta.

7. This Court has considered the rival submissions and also perused the materials placed before it.

8. Whether the land classified as "Thope Poromboke" can be assigned or not, in the considered opinion of this Court, revolve around factual aspects. The fact remains that the land has been classified as "Thope Poromboke" and according to the official respondents, since the possession of the private respondents in respect of the land in question is for quite long time and that is also not causing any hindrance, passed an order to regularize their possession. A perusal of the photographs would also disclose that there are very many standing palm trees on the land in question.

9. This Court, taking into consideration the rival submissions and the facts and circumstances, permits the petitioner to file an appeal before the Commissioner for Land Administration, Ezhilagam Chepauk, Chennai-600005, by enclosing the relevant documents along with the copy of this order within a period of four weeks from the date of receipt of a copy of this order and the said official on receipt of the same, without putting an issue of limitation, shall entertain the same, if the papers are otherwise in order and after putting on notice the petitioner as well as the private respondents, shall consider and dispose of the same in accordance with law within a period of eight weeks thereafter, and communicate the decision taken, to the petitioner as well as the private respondents.

The writ petition stands disposed of accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

vsm
To

1. The District Collector
Collectorate
Namakkal District
Namakkal.
2. The Tahsildar
Taluk Office
Namakkal.
3. The Revenue Division Officer
Namakkal
Namakkal District.
4. The Village Administrative Officer
Kumari Palayam Panchayat
Namakkal District.
5. The Block Development Officer (Special Officer)
Kumari Palayam Panchayat
Office at Namakkal Taluk Office
Namakkal.

Copy to:

6. The Commissioner for Land Administration,
Ezhilagam Chepauk, Chennai-600005

- +1 CC to Govt. Pleader sr 28876.
+1 CC to Mr.C. Jagadish, Advocate sr 28301.
+1 CC to Mr.S. Senthil Nathan, Advocate sr 28351.

W.P.No.30654 of 2017

SG(CO)
SP(14/05/2018)