

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.08.2018

CORAM

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

WP.No.1236 of 2016
and WMP.Nos.972 to 974 of 2016

1.N.Durai
2.Sivajini Devi
3.Mani

..Petitioners

vs

1. The District Collector
Cuddalore District
At Cuddalore.
2. The District Revenue Officer
Cuddalore District,
At Cuddalore.
3. The Revenue Divisional Officer,
Virudhachalam,
Cuddalore District.
4. The Tahsildar,
Virudhachalam,
Cuddalore District.
5. The Village Administrative Officer,
Mangalampettai Village,
Virudhachalam Taluk,
Cuddalore District - 606 104.
6. The President,
Mangalampettai Village Panchayat,
(Special Grade Panchayat),
Virudhachalam Taluk,
Cuddalore District.
7. The Inspector of Police,
Mangalampettai Police Station,
Virudhachalam Taluk,
Cuddalore District.
8. The Inspector,
Hindu Religious and Charitable Endowment Board,
Virudhachalam,
Cuddalore District - 606 104.

9. Arulmighu Mangala Nachiyar Koil
Rep. by its Hereditary Trustee
Thiru.Velusamy Katchirayar,
Virudhachalam Taluk,
Cuddalore District - 606 104.

10.Thiru.Balamurugan

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relevant to the order in Na.Ka.AA7/15157/2015 dated 14.11.2015 passed by the 4th respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the principles of natural justice and thereby directing the respondents 1 to 4 to issue patta in respect of the property situated in Natham Survey No.105/1 (New Survey No.223) or Re-survey No.95/8 to an extent of 0.00.5 Ares or 1 ¼ cents at Mangalampettai Village and Post, Viruthachalam Taluk, Cuddalore District - 606 104 in the name of each petitioner.

For Petitioners : Mr.A.Rajesh Kanna

For Respondents : Mrs.A.Srijayanthi
Special Government Pleader R1 to R5 & R7
Mr.M.Maharaja
Special Government Pleader (HR & CE) for R8.
Mr.N.Srinivasan for R6.
No Appearance for R9 and R10.

O R D E R

The order passed by the Tahsildar, Virudhachalam in proceedings dated 14.11.2015 in respect of the claim of the writ petitioners for grant of Patta is under challenge in this writ petition.

2. The writ petitioners claim that they are residing in Mangalampettai Village, Virudhachalam Post, Cuddalore District for about three decades and in the property in question in S.No.105/1 (New S.No.223), the writ petitioners have put up a hut and residing with their family.

3. The claim of the writ petitioners are that the 5th respondent / Village Administrative Officer has given no objection to them for grant of electricity connection and to occupy the said land. The writ petitioners are in possession and enjoyment of 0.00.5 Ares each in Survey No.105/1 is classified as 'Natham' but according to the 9th respondent / Temple, they

are the owner of the said properties. As per the revenue records, the property in S.No.105/1 [New S.No.223] is classified as "Battai Poromboke". Under these circumstances, the writ petitioners claim that they are in possession and enjoyment of the said lands for the past many years. Therefore, they are entitled for grant of Patta under the Tamil Nadu Patta Passbook Act, 1983. The writ petitioners have submitted application before the Tahsildar, Villupuram for grant of Patta. In respect of the same land, the writ petitions have filed WP.No.29488 to 29490 of 2015, and this Court passed an order on 18.09.2015 directing the respondents to consider the representations submitted by the writ petitioners within a period of 8 weeks. Pursuant to the orders passed by this Court, the Tahsildar, Virudhachalam passed an order in proceedings dated 14.11.201, which is impugned in this writ petition. The impugned order states that the property in occupation of the writ petitioners are the temple lands and the said property belongs to the Diety of the temple. This apart the other portion of the land is also a Government Poromboke land which is under the usage of public at large. Thus no patta can be issued in favour of the writ petitioners.

4. This Court is of an opinion that in respect of the temple lands and the Government Poromboke lands, this Court issue cannot issue any direction for grant of Patta to the occupants, who are all otherwise encroachers. If at all, lands are to be assigned in favour of the poor land less people, the exercise should be done at the Government level, by taking into account the earlier decisions and by implementing the same in a uniformed manner and without causing any discrimination. Encroachers as such are not entitled for any relief, as the said land belongs to the temple and other portion of land belongs to the Government. Thus the authorities competent are empowered to initiate action against the writ petitioners under the provisions of Tamil Nadu Land Encroachment Act, 1905. The permission as granted by the Village Administrative Officer is without any authority. If at all, any such illegal permission is granted by the Village Administrative Officer in favour of the writ petitioners, then the District Collector and other competent authorities are bound to initiate appropriate disciplinary proceedings against all such government servants who are granting Patta orally and permission for encroachments.

5. The District Collector has to conduct periodical review meetings to protect the government lands and other public properties. If the government lands are under encroachment, then suitable actions are to be initiated by all the competent officials for eviction of such encroachments and utilise the land for public purpose and in the interest of public. Contrarily, it is a growing practice that the statutory

officials are orally granting such permission to the people for occupation of the Government lands. In this regard, large scale corrupt activities are going on in the State. Therefore, it is the duty of the District Collector to ensure that such encroachments are not only removed within a stipulated time, but also all such officials who are all indulged in corrupt activities are to be prosecuted in accordance with law. Even in the affidavit filed in support of the writ petition, the writ petitioners have stated that the Village Administrative Officer has not only granted permission to occupy the Government land but also granted no objection to provide electricity power supply. Thus, the District Collector is directed to enquire into the matter and take appropriate action against all such officials. In the event of grant of any such illegal permission or no objection certificate by the Village Administrative Officer or by any other authority actions are to be initiated. Though, the writ petitioners are not entitled for any relief, in view of the fact that they are encroachers in respect of Government Poromboke lands, the Tahsildars are incompetent to issue patta without the permission of the Government. The Tahsildar cannot deal with the property for grant of Patta under the Patta Passbook Act, in respect of the Government Poromboke lands. Thus, writ petitioners have not established even a semblance of legal right for grant of Patta. Even if the writ petitioners are of the opinion that when they get any right over the property, it is for them to approach the appellate authority under the provisions of the Patta Passbook act. In the event of filing of any such appeal before the appellate authority, the appellate authority is bound to consider all the revenue records and the documents, if any, filed by the writ petitioner, take a decision and pass orders without causing any delay.

6. The writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-V)

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Sub Assistant Registrar

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To

1. The District Collector
Cuddalore District, Cuddalore.

2. The District Revenue Officer
Cuddalore District, Cuddalore.
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Virudhachalam,
Cuddalore District - 606 104.

+1cc to Mr.N.Srinivasan, Advocate, S.R.No. 54713
+1cc to the Government Pleader, S.R.No. 55095

WP.No.1236 of 2016

GP(CO)
GN(10/09/2018)

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