

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12-09-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.31000 of 2014

And

M.P.No.1 of 2014

S.Sakkaraimmal .... Petitioner

...Vs...

1.The District Collector,  
Tiruppur.

2.The Tahsildar,  
Udumalpet,  
Tiruppur District.

.... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to issue patta for 2 acres of agriculture land in S.No.419/7 in the Ellayamuthur Village, Udumalpet Taluk, Tiruppur District based on the representation of the petitioner dated 25.6.2007 considering the fact that she is a landless farmer belonging to the Scheduled Caste.

For Petitioner : Mr.M.Purushothaman

For Respondents : Mrs.A.Shrijayanthi,  
Special Government Pleader.

सत्यमेव जयते

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to issue patta for 2 acres of agriculture land in S.No.419/7 in the Ellayamuthur Village, Udumalpet Taluk, Tiruppur District based on the representation submitted by the petitioner on 25.6.2007.

2. The writ petitioner claims that she is a landless farmer and her family is continuously cultivating 2 acres of land in S.F.No.419/7 for the past 20 years. The writ petitioner is now cultivating the said land for about 10 years. The writ

petitioner submitted a petition to the Sub-Collector in the Grievance Day Camp in Udumalpet for issuing patta in her name under the Government Free Cultivation Land Patta Scheme. However, her request was not considered by the respondents.

3. The grievance of the writ petitioner is that the land in question is in possession and enjoyment for more than 20 years. The local persons are threatening the writ petitioner, demanding money, by stating that they will not allow the respondents to issue patta. Under these circumstances, the writ petitioner is constrained to move the present writ petition.

4. The learned Special Government Pleader, appearing on behalf of the respondents, opposed the said contention of the learned counsel for the writ petitioner, by stating that the land under possession and enjoyment of the writ petitioner is classified as "Assessed Waste Government Poramboke Land". Thus, no patta can be issued in favour of the writ petitioner.

5. The contention of the writ petitioner that she is cultivating the said land for about 10 years is incorrect. As per the revenue records, the said land is classified as "Assessed Government Poramboke Land" and therefore, nobody can claim any enjoyment or right over the said land unless it is assigned to landless poor people through an assignment patta as per the provisions of Disposal of Surplus Land Rules.

6. The land described in the writ petition was unauthorisedly in enjoyment by one Mr.Asan Mohammed Ravuthar during the period 1997 and had issued notice under "B" Memo by the then Revenue Inspector of Kurichikottai, Udumalpet Taluk. Thus, the statement made by the writ petitioner that she is in possession of the said land for more than 20 years is false and misleading one.

7. It is further stated that the writ petitioner has suppressed the material fact that one Amaravathi and her son Dhandapani are belonging to writ petitioner's Community and residing in writ petitioner's village and also simultaneously claiming patta in respect of the very same land in question. There is a dispute regarding the possession and enjoyment of the said land between the writ petitioner and the rival parties, namely, Dhandapani, S/o.Subban and Maruthan, S/o.Veeran.

8. The writ petitioner has lodged a complaint against the rival parties before the Sub Inspector of Police, Amaravathinagar Police Station. After investigation, the Sub Inspector of Police has referred the matter under Section 107 of Cr.P.C., on 21.11.2014 before the Tahsildar for enquiry. This apart, the rival claimants, namely, Amaravathi and Dhandapani

filed a civil suit in O.S.No.540 of 2014 before the District Munsif Court, Udumalept. Under these circumstances, it is contended that both the writ petitioner as well as the rival claimants are not in possession and enjoyment of the said poramboke land and therefore, the writ petition deserves to be rejected.

9. This Court is of an opinion that the writ petitioner is to be considered as an encroacher. The said land in question is classified as "Government Poramboke Land". Thus, it is duty mandatory on the part of the District Collector to evict all such encroachers and utilise the land for the welfare of the public at large and in the interest of public administration. In case of introducing any Scheme by the Government, then a decision shall be taken to assign the land in favour of the landless poor people in accordance with the terms and conditions stipulated in the Government Order. Even while considering the cases, the authorities competent are bound to consider all such similarly placed persons. This being the principles to be followed, the respondents are liable to evict all such encroachers in respect of the Government Poramboke Lands.

10. The District Collector in this regard is bound to conduct review meetings to identify all such encroachments in Government Poramboke Lands and in water bodies, within his jurisdiction. Suitable orders and directions are to be issued to all the officials concerned to evict all such encroachers from the Government lands and water bodies, by following the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905 and Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

11. In the event of any negligence or dereliction of duty on the part of the officials concerned, the District Collector is bound to initiate appropriate prosecution and disciplinary proceedings against all such officials, who are committing an act of negligence or dereliction of duty. Thus, there cannot be any leniency or misplaced sympathy shown in respect of Government lands and water bodies. Large scale encroachments are encouraged by the few subordinate officials with the connivance of the local politicians in that area. Thus, it is the duty of the District Collector to convene the periodical review meetings and ascertain all such encroachments and evict the encroachers by following the procedures contemplated under the law.

12. This being the factum of the case, the following orders are passed:-

(i) The relief, as such, sought for by the writ

petitioner in this writ petition stands rejected;

(ii) The first respondent/District Collector is directed to identify all encroachments in respect of the Government lands and water bodies within his jurisdiction;

(iii) The first respondent/District Collector is directed to issue suitable orders/directions to all the officials concerned to initiate appropriate actions for eviction of all the encroachers in Government lands and water bodies by following the procedures contemplated under the law;

(iv) The first respondent/District Collector is directed to ensure that appropriate disciplinary actions are initiated against all the officials concerned, who all are committing an act of negligence or dereliction of duty in protecting Government lands and water bodies.

13. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

Svn

To

1. The District Collector, Tiruppur.

2. The Tahsildar, Udumalpet,  
Tiruppur District.

+1cc to Government Pleader SR.No.63831

GMV (26/09/2018)

W.P.No.31000 of 2014

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