

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :03.10.2018

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

W.P.No.26095 of 2015

1.Mrs.Hajiram Bee
2.A.Sairabanu

both residing at No.67, P.H.Road,
1st Floor, Ondikuppam,
Manavala Nagar, Tiruvallur-602 001.

..Petitioners

vs

The District Revenue Officer,
O/o.the District Collectorate,
Tiruvallur District,
Tiruvallur.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceeding, Rc.20537/2014/N1, dated 04.02.2015 and quash the same as arbitrary, unjustifiable and illegal and consequently direct the respondent to issue Patta in respect of the petitioner property, comprised in Survey No.520/3, (Paimash No.638-B), measuring to an extent of 4 Cents, situate at Pungathur Village, Tiruvallur Taluk and District in favour of the 1st petitioner.

For Petitioners : Mr.R.Munuswamy

For Respondent : Mr.R.S.Selvam, GA

O R D E R

The order impugned, in proceedings dated 04.02.2015, issued by the respondent / District Revenue Officer, Tiruvallur, in respect of the claim of the writ petitioner for grant of patta is under challenge in this writ petition.

2.The petitioner claims that he is the absolute owner of the property comprised in Survey No.520/3, (Paimash No.638-B), measuring to an extent of 4 Cents, situated at Pungathur Village, Tiruvallur Taluk and District. The vast extent of agricultural lands including the petitioners property comprised in Paimash Nos.628, 629, 633, 634, 635, 636, 637 and 638, measuring to an extent of 1.32 Acres, were purchased by the Mother of the writ petitioners, namely, Mrs.Jain Bibi, W/o.Abdul Rahman Sayub under the sale deed dated 12.09.1944 vide Document No.3562/1944.

3.The grievance of the writ petitioners are that an application for grant of patta was submitted under the provisions of the Patta Pass Book Act, 1983 to the competent authorities. Since, no order had been passed by the authorities, the writ petitioners earlier filed a writ petition in W.P.No.22937 of 2014, and this Court passed an order on 25.08.2014, directing the authorities to consider the representation and pass orders on merits and in accordance with law within a period of eight weeks. Pursuant to the orders of this Court, the impugned proceedings are issued by the District Revenue Officer on 04.02.2015. Challenging the same, the present writ petition has been filed.

4.Even as per the petitioner, the property in question is classified as "Cart Track" (Vandipathai). The land belongs to the Government. However, the petitioner claims right over the property based on the long possession and enjoyment. In other words, the learned counsel for the petitioner contended that the writ petitioner is in possession and enjoyment of the said property for many years and therefore, they are entitled for grant of patta under the provisions of the Patta Pass Book Act.

5.The learned counsel appearing on behalf of the respondents opposed the contentions by stating that the land in question is classified as "Cart Track" (Vandipathai), which belongs to the Government. In respect of the Government land, no patta can be granted in favour of the individuals only based on the possession under the provisions of the Patta Pass Book Act. Thus, the claim of the writ petitioner has been rightly rejected by the competent authority and there is no infirmity as such.

6.This Court is of an opinion that Section 3 of the Patta Pass Book Act enumerates that the "owner" of a property is entitled to claim patta under the provisions of the Patta Pass Book Act. It is needless to state that the person, who submits an application, seeking Patta Pass Book, must be established that he is the owner of the property. In the event of the fact that the land is classified as Government Land or water body or otherwise, then the competent revenue officials are incompetent to issue patta in favour of individuals. In respect of the Government land, water bodies and water resources, it is the duty of the officials to protect the same in the interests of public and for the welfare of the public at large. Undoubtedly, the Government lands and properties are to be utilized for common purpose and therefore, the same cannot be granted in favour of the individuals merely on the ground that they are in possession and enjoyment of the property for a considerable length of time. Thus, grant of patta is to be regulated strictly in accordance with the provisions of the Patta Pass Book Act. The revenue officials are incompetent to adjudicate the title,

ownership or possession in respect of the immovable properties. Only in the event of establishing that the person is the owner of the property, then alone the Patta Pass Book can be granted. When it is brought to the notice of the authorities that the land in question is classified as a Government land, in the present case, "Cart Track" (Vandipathai), then no patta can be issued in favour of any individual and the said land is to be utilized for the welfare of the public at large.

7. It is a growing trend in our State that people are occupying the Government land and by virtue of long possession, they are claiming patta by filing applications under the provisions of the Act. All corrupt activities of the competent officials in respect of grant of Patta are to be dealt with iron hand and there cannot be any leniency or misplaced sympathy, while dealing with such kind of cases. Corruption is growing like a cancer in our Country and it is the duty of all concerned to ensure that all those corrupt officials are booked and prosecuted in accordance with the procedures as contemplated. This apart, the land grabbing is also considerably increased on account of the increase of land cost in urban areas. Greedy men are attempting to grab Government land and Government properties for personal gains. In this regard, the District Administration is duty bound to protect the Government land and Government properties by safeguarding the interests of public at large. The District Collectors are bound to conduct periodical Review Meetings and the officials concerned must be directed to initiate appropriate actions against all such encroachments by following the procedures as contemplated under the provisions of the Tamil Nadu Land Encroachment Act, 1905 and in respect of the water bodies and water resources, Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

8. This being the principles to be followed, this Court is of an opinion that persons, who are in occupation of the Government lands, can never be allowed to continue and all appropriate actions are to be initiated by following the procedures as contemplated under law. Accordingly, the following directions are issued.

1. The relief as such sought for in the present writ petition stands rejected and the impugned order in Rc.20537/2014/N1, dated 04.02.2015, passed by the District Revenue Officer, Tiruvallur stands confirmed.
2. The District Collector, Tiruvallur District is directed to convene Review Meeting of the officials concerned within a period of two weeks from the date of receipt of a copy of this order.
3. The District Collector, Tiruvallur District is directed to issue instructions / orders to all the authorities concerned to identify the

encroachments in Government land, water bodies and water resources within his jurisdiction in Tiruvallur District.

4. The District Collector, Tiruvallur District, is directed to issue orders / instructions to all the officials concerned to initiate appropriate action for eviction of encroachers in respect of the Government land, water bodies and water resources without any undue delay and by following the procedures as contemplated under the Tamil Nadu Land Encroachment Act, 1905.
5. In the event of any failure on the part of the officials concerned or negligence or dereliction of duty in this regards, The District Collector, Tiruvallur District, is directed to initiate prosecution and appropriate disciplinary proceedings against all such officials under the Discipline and appeal Rules.
6. The District Collector, Tiruvallur District is directed to issue circular to protect the Government lands and Government properties, water resources and water bodies by following the appropriate provisions of law.

9. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
O/o. the District Collector,
Tiruvallur District, Tiruvallur.

2. The District Collector,
Tiruvallur District

+1cc to the Government Pleader, S.R.No.68555

W.P.No.26095 of 2015

RJI (CO)

rrs 25/10/2018