

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11-10-2018
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.2566 of 2013
M.P.No.1 of 2013

S.Saraswathi

... Petitioner

Vs

1. The Revenue Divisional Officer,
Chengalpattu Taluk,
Chengalpattu,
Kancheepuram District.

2. The Thasildar
Chengalpattu Taluk,
Chengalpattu,
Kancheepuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents, their men, agent, servants and persons claiming through them from evicting and/or disturbing the possession of the petitioner from his property consisting of superstructure and land comprised in Survey No.254/3 at No.48, Kalvoy Village, Chengalpattu, Kancheepuram District.

For Petitioner : Mr.Dr.C.Ravichandran

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The relief sought for in the present writ petition is to forbear the respondents, their men, agents, servants and persons claiming through them from evicting and/or disturbing the possession of the writ petitioner from his property consisting of superstructure and the land comprised in Survey No. 254/3 at No.48, Kalvoy Village, Chengalpattu, Kancheepuram District.

2. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the writ petitioner is the owner of the property admeasuring 10 cents comprised in Survey

No.254/3 at No.48, Kalvoy Village, Chengalpattu, Kancheepuram District and had put up a thatched roof superstructure in the said land and the writ petitioner is paying the property tax for the past about 30 years. The learned counsel for the writ petitioner further states that the writ petitioner is in possession and enjoyment of the said property for long number of years and therefore, the writ petitioner is entitled for the grant of patta.

3. The learned Government Advocate, appearing on behalf of the respondents, made a submission that the land in question is a poramboke land and classified as "Meichal Poramboke" (grazing land). Therefore, the writ petitioner has no authority to continue in the said poramboke land. The writ petitioner is an encroacher and therefore, she is liable to be evicted under the provisions of the Tamil Nadu Land Encroachments Act, 1905.

4. The learned counsel for the writ petitioner states that the actions are initiated selectively by the respondents and therefore, they are causing discrimination in respect of implementing the laws in this regard. It is further contended by the learned counsel for the writ petitioner that no show cause notice was issued and therefore the writ petitioner cannot be evicted.

5. This Court is of an opinion that the Government poramboke lands are to be protected in all respects by the officials concerned. The encroachments in the poramboke lands are to be evicted by following the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905. Admittedly, the writ petitioner is in possession and enjoyment of the Government poramboke land, which is classified as "Grazing Land". Thus, the writ petitioner has no right to continue in the abovesaid poramboke lands.

6. This Court has repeatedly held that the encroachers are to be evicted by following the procedures contemplated under the Act. The Government lands are to be utilised for the welfare of the public and in the interest of public administration. Allowing the encroachments will certainly cause prejudice to the interest of the public and more specifically, to implement the Public Schemes for the welfare of the public at large.

7. The growing trend in the State is that the people are tempted to encroach the Government lands, water bodies and water resources, in view of the fact that the land costs are increasing rapidly. Thus, the people are indulging in the illegal activities of the encroachments with the help of some officials and with the assistance of some local politicians. The authorities competent are bound to deal with all such cases with iron hand and there cannot be any leniency or misplaced sympathy

on such encroachments are illegal and to be evicted by following the procedures contemplated under the provisions of the Tamil Nadu Land Encroachments Act, 1905. Allowing such encroachments will certainly cause prejudice to the citizen at large.

8. However, the house sites to the landless poor people can be provided by the State only by formulating a Scheme. In the event of formulating such schemes, the authorities competent are bound to implement the same strictly in accordance with the terms and conditions stipulated in the policy. There cannot be any discrimination in respect of implementing such welfare policies. The similarly placed persons are to be considered uniformly and such free house sites are to be land granted as per the guidelines or the conditions imposed. Thus, in the event of establishing that the writ petitioner is a landless poor person, then the case of the writ petitioner is to be considered only with reference to the Scheme introduced by the Government and not otherwise. It is not as if the persons can encroach the public land and claim patta or ownership only on the basis that they are continuing in the land for number of years.

9. Under these circumstances, this Court is of an opinion that strict actions are required in respect of all such illegal encroachments and the officials are bound to follow the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905 and evict all such encroachers, who all are in occupation of the Government poramboke lands.

10. In this view of the matter, the following orders are passed:-

(i) The relief, as such, sought for in this present stands rejected;

(ii) The respondents are directed to evict all such encroachments in that locality, including the writ petitioner, by following the procedures contemplated under the provisions of the Tamil Nadu Land Encroachments Act, 1905;

(iii) The respondents are directed to convene review meetings in respect of all the officials concerned and initiate action for eviction of all such encroachments in that locality;

(iv) The District Collector, Kancheepuram District, Kancheepuram is directed to identify all such encroachments and initiate actions for eviction of encroachments and in the event of any negligence or dereliction of duty on the part of the officials concerned, appropriate disciplinary proceedings are to be initiated against all such officials;

(v) The District Collector, Kancheepuram District, Kancheepuram is bound to issue circulars to all the officials concerned to protect the Government lands, water bodies and water resources as prescribed under law.

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

12. The Registry is directed to communicate the copy of this order to the District Collector, Kancheepuram District, Kancheepuram.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn/kmm

To

1. The Revenue Divisional Officer,
Chengalpattu Taluk,
Chengalpattu,
Kancheepuram District.

2. The Thasildar
Chengalpattu Taluk,
Chengalpattu,
Kancheepuram District.

3. The District Collector,
Kancheepuram District,
Kancheepuram.

+lcc to Mr.C.Ravichandran, Advocate SR.NO.70820

+lcc to Government Pleader SR.NO.71116

RSI (CO)

sm:2.11.2018

सत्यमेव जयते

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