

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P. No.21125 of 2014

Jegadeesan

...Petitioner

Versus

1. The District Collector,
Namakkal District.
2. The Thasildhar,
Thiruchengodu Taluk,
Namakkal District.
3. The Commissioner,
Panchayat Union,
Mallasamuthiram,
Thiruchengodu Taluk,
Namakkal District.
4. Block Development Officer,
Panchayat Union,
Mallasamuthiram,
Thiruchengodu Taluk,
Namakkal District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue writ of Mandamus to direct the 2nd respondent to issue patta to the petitioner property at 131, Vaiyappamalai Post, Thiruchengode Taluk, Namakkal District on the strength of the explanation, dated 16.02.2014 submitted to the 4th respondent as per the order dated 20.01.2014.

For Petitioner : Mr.J. Sudhakaran

For Respondents : Mr.D. Raghu
Government Advocate for RR1 to 3
Mr.B. Anandan for R4

O R D E R

The relief sought for in this writ petition is for a direction to direct the second respondent to issue patta to the petitioner's property at 131 Vaiyappamalai Post at Thiruchengode, Namakkal District on the strength of the explanation dated 16.02.2014, submitted by the 4th respondent.

2. The learned counsel for the writ petitioner states that the petitioners are in possession and enjoyment of the land, which is classified as Santhai Poromboke.

3. The learned counsel for the petitioner states that the petitioners are in possession and enjoyment of the said property for more than 50 years. Thus, they are entitled for grant of patta under the provisions of the Patta Passbook Act.

4. The learned counsel further contended that the case of the writ petitioner was recommended by the District Collector and the District Collector also made a suggestion that an alternate land to be provided to these petitioners in Government Poromboke Land. However, the Collector has stated that there cannot be any encroachments in respect of the Santhai Poromboke which is to be utilised for the welfare of the farmers of that locality. Thus, the encroachment of the writ petitioner was objected by the farmers of that locality and they unable to utilise the said santhai poromboke for the purpose of selling their agricultural products and vegetables.

5. Thus, the Collector has initiated action to evict this petitioner. A notice was issued to the writ petitioner and he has earlier filed writ petition in the year 2008 and this Court directed the authorities to consider the representation submitted by the writ petitioner. However, pursuant to the orders of this Court, another notice was also issued by the Block Development Officer. The writ petitioner has submitted an explanation. It is contended on behalf of the writ petitioner that the Collector has made an observation that an alternate land may be provided to the writ petitioner in some other poromboke land. Therefore, the case of the writ petitioner shall be considered by the competent authority.

6. This Court is of an opinion that the writ petitioner is certainly an encroacher in respect of the land which is classified as Santhai Poromboke. Undoubtedly, the santhai poromboke is to be utilised for the welfare of the farmers of that locality. This apart, there is an objection in respect of the encroachments by the people of that locality. Thus, the actions initiated by the authorities for eviction of the encroachers are certainly in accordance with the provisions of law and there is no infirmity.

7. The petitioner, if at all to be considered for grant of free house site patta, the same is to be considered only under the schemes to be published by the Government in the interest of the land less poor people. The Government then and there issued orders for the welfare of the poor landless people for grant of free house site patta. While implementing such schemes all the beneficiaries are to be considered equally and in an uniform manner. Thus, it is needless to state that while undertaking such schemes by the Government, the writ petitioner is at liberty to submit his application and in the event of submitting any such application, the authorities competent are bound to consider the case of the writ petitioner also along with all other similarly placed persons and as per the terms and conditions stipulated in the Government Order. It is made clear that there cannot be any violations or deviations in respect of the implementation of the schemes by the Government.

8. However, in respect of the encroachment there cannot be any leniency or misplaced sympathy either by the authorities or by the Courts. All encroachments in the public lands and water bodies are to be construed as grave offence. Such encroachments are infringing the rights of all other citizens who are all residing in that locality. Thus, the encroachments are to be removed by following the procedures contemplated under the Tamil Nadu Land Encroachment Act. Encroachers have no right whatsoever for grant of patta under the Patta Pass Book Act. Section 3 of the Patta Pass Book Act enumerates that a Patta Pass Book can be granted to the owner of the property. Thus, an owner of the property alone is entitled for grant of patta and the applicant seeking patta has to establish that he is the owner of the land against which, the patta is sought for. Under these circumstances, the writ petitioner has not established nor filed any documents to show that he is the owner of the land. Contrarily it is established that the land in occupation of the writ petitioner in Santhai Poromboke which is to be utilised for the purpose of the public at large. Thus, it is made clear that the respondents are duty bound to evict all such encroachments in their jurisdiction.

9. The District Collector in this regard is directed to conduct a review meeting to identify all such encroachments within his jurisdiction. Suitable orders are to be issued to all the concerned officials to initiate appropriate action for eviction of all such encroachers from the Government lands, water bodies and other public properties. By following the procedures all such encroachments are to be removed. In the event of any negligence, lacuna or dereliction of duty on the part of the public officials, then the District Collector is bound to initiate appropriate prosecution and disciplinary proceedings against all such officials by invoking the provisions of the Disciplinary and Appeal Rules. It is made

clear that there cannot be any leniency in respect of the actions to be initiated by the officials concerned in the district. The District Collector should ensure that all such encroachments are removed within the time fixed and the Government lands are utilised for the welfare of the public at large and in the interest of the public administration. This being the principles to be followed, the writ petitioner has not established any case for grant of relief as such sought for in this writ petition. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Namakkal District.
2. The Thasildhar,
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Panchayat Union,
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Namakkal District.
4. Block Development Officer,
Panchayat Union,
Mallasamuthiram,
Thiruchengodu Taluk,
Namakkal District.

+1cc to Mr.J.Sudhakaran, Advocate, S.R.No.61170.
+1cc to the Government Pleader, S.R.No.61776.

W.P. No.21125 of 2014

SV(CO)

rrs 26/09/2018