

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.04.2018

CORAM :

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

W.P.No.22000 of 2014
and M.P.No.1 of 2014

G.Radhamani

.....Petitioner

Vs.

1.The Principal Secretary and
Commissioner of Land Administration
Chepauk, Chennai -5.

2. The District Collector
Salem District
Salem

3.The District Revenue Officer
Salem District
Salem

4.The Revenue Divisional Officer
Mettur Taluk,
Mettur
Salem District

5.The Tahsildar
Mettur Taluk,
Mettur,
Salem District

6.Murugan
President of Navapatty Panchayat
Navapatty
Mettur Taluk
Salem District.

.....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 5th respondent/Tahsildar to include in Revenue record HSD Patta No.1398/1407 of the petitioner in Survey No.62/2 situated at Navapatty Village, Mettur Taluk, Salem District and issue Patta, Chitta, Adangal and FMB for the same.

For Petitioner : Mr.P.Rathanavel

For Respondents : Mr.A.Sri Jayanthi
Special Government Pleader
for R1 to R5
None appeared for R6.

O R D E R

The relief sought for in this writ petition for a direction to the fifth respondent Tahsildar to include in Revenue record HSD Patta No.1398/1407 of the petitioner in Survey No.62/2 situated at Navapatty Village, Mettur Taluk, Salem District and issue Patta, Chitta, Adangal and FMB for the same.

2. Learned counsel appearing on behalf of the writ petitioner states that the land classified as village natham is situated in Land Survey No.62/2 in Navapatty Village, Mettur Taluk, Salem District. The petitioner along with four others namely Mr.R.Sivakumar, H.Govindammal, Mrs.R.K.Annamal, Mrs.R.Matheswari had occupied and constructed a hut in the above natham land and peaceful possession and enjoyment of the same. The petitioner made a representation to the fifth respondent requesting them to issue House Site Pattas in respect of the hut put up by the writ petitioner and they are residing at the premises for a considerable length of time. The fifth respondent, Tahsildar along with the Surveyor, Revenue Inspector and Village Administrative Officer visited the occupied place of the petitioner and verified the possession of the village natham land. Thereafter, he issued a separate house site patta for five occupants vide order dated 25.11.1997. Thus, the writ petitioner claims that he must be issued with Patta, Chitta, Adangal and FMB on the basis that the assignment was made by the Tahsildhar in the year 1997 and the petitioner is continuing in the said premises for a considerable length of time.

3. The learned Special Government Pleader appearing on behalf of the respondents 1 to 5 made a submission that the writ petitioner has filed the present writ petitioner with incorrect facts. It is further wrong to say that the writ petitioner and four others were constructed their huts in the land and in possession and enjoyment of the same. In fact, the said land is free from encroachment and there is no hut as stated by the writ petitioner. Further, it is stated that the respondents are not aware of the contents that the Village Administrative Officer and Surveyor visited the alleged land, the fifth respondent issued HSD patta No.13/1407 dated 21.11.1997. It is stated in

paragraphs 6 and 7 filed by the sixth respondent in the counter affidavit as follows.

'6. It is respectfully submitted that the Navapatty village consist of 800 families. Both S.C. and other caste. The people in that locality gave a petition to the Panchayat to construct a Public Toilet for Men and Women it submitted it is long demand for the People. Based on the peoples representation the member of the Council found the land in S.No.62/2 of Navapatty village found vacant and it also classified as Natham Poramboke in the records. So, the council unanimously passed a resolution to construct a Public Toilet for Men and Women and also send representation to the Tahsildar, Sub-Collector, and District Collector, Salem to allot the land to the Panchayat for construction of Public Toilet dated 14.08.2014. It is submitted the officials also accept the same.

7. It is submitted that there is no such HSD Patta given to the Petitioner are not in possession and enjoyment of the alleged land. The petitioner has wantonly filed this Writ in order to prevent this respondent to proceed with construct the Public Toilet and tried to grab the Govt. land and the Respondent is not a party in this allegation as alleged. This Respondent is an unnecessary party. In order to give trouble to this Respondent. The Petitioner wantonly add this Respondent as a party. The injunction petition against this Respondent is not maintainable, since Respondent is not a party in the allegation put forth by the petitioner. Hence, the petition is liable to be dismissed in limine.'

4. This court is of an opinion that there is a dispute in respect of the assignment to the writ petitioner by the fifth respondent in proceedings dated 21.11.1997, when there was an actual dispute between the writ petitioner and the fifth respondent and the fifth respondent has to verify the facts and circumstances prevailing in respect of the land in question and take an appropriate action in accordance with law.

5. Under these circumstances, the fourth respondent Revenue Divisional Officer, Mettur Taluk, Salem District is directed to conduct an enquiry in respect of the land in question and ascertain whether it is a public land or a private land. If it is a public land, then an appropriate action shall

be taken in accordance with the law by following the procedures. Such an enquiry is to be conducted by providing an opportunity to all the necessary parties if it is a public land then suitable actions will be taken under the provisions of the relevant statute for eviction .

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

Sd/-

Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

msv/ah

To

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SSV(CO)
GN(16/05/2018)