

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12-09-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.22592 of 2014

And

M.P.No.1 of 2014

1.D.Jayakumar

2.J.Dhanam

... Petitioners

..Vs..

1.The Special Tahsildar,
Natham Nila Vari Thittam,
Maduravoyal Taluk,
Maduravoyal,
Chennai.

2.The Special Tahsildar,
Natham Nila Vari Thittam,
Ambattur Taluk,
Chennai-600 053.

3.S.Rose

4.J.Mettilda

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent Nos.1 and 2 to consider the representation dated 8.8.2014 given by the petitioners and directing them to conduct a spot inspection and to issue patta in respect of the property bearing Door No.17/47, Old No.3/312, 2nd Cross Street, Perumal Koil Street, Nerkundram, Chennai-101, comprised in Survey No.81/1, Sub-Division Survey No.472/24, Grama Natham to an extent of 00056 Sq. Mtr., or thereabouts in favour fo the petitioners.

For Petitioners
For Respondents-1&2

: Dr.G.Krishnamurthy
: Mrs.A.Shrijayanthi,
Special Government Pleader.

For Respondent-3
For Respondent-4

: No Appearance
: Mr.V.Ayyappa Raja

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents 1 and 2 to consider the representation submitted by the writ petitioners on 8.8.2014 and directing the respondents 1 and 2 to conduct a spot inspection and to issue patta in respect of the property bearing Door No.17/47, Old No.3/312, 2nd Cross Street, Perumal Koil Street, Nerkundram, Chennai-101, comprised in Survey No.81/1, Sub Division Survey No.472/24, Grama Natham to an extent of 00056 Sq. Mtr., or thereabouts in favour of the writ petitioners.

2. The learned counsel, appearing on behalf of the writ petitioners, states that the writ petitioners are in possession and enjoyment of the portion of the land in Door No.17/47, Old No.3/312, 2nd Cross Street, Perumal Koil Street, Nerkundram, Chennai-101, comprised in Survey No.81/1, Sub Division Survey No.472/24, Grama Natham to an extent of 00056 Sq. Mtr., within the Sub-Registration District of Virugambakkam, to an extent of 312 sq.ft.

3. The claim of the writ petitioners is that they are in continuous possession of the said land, which is classified as "Grama Natham". Therefore, the patta should be granted in their favour. The writ petitioners submitted an application to the Tahsildar, Madhuravoyal, on 14.7.2014 for the grant of patta and the said application has not been considered so far. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned Special Government Pleader, appearing on behalf of the respondents 1 and 2, opposed the said contention of the learned counsel appearing for the writ petitioners, by stating that the writ petitioners are encroachers and not possessing any valid title in respect of the property. The property under the possession of the writ petitioners is classified as "Grama Natham". Therefore, patta cannot be granted in a routine manner. However, the original records are not produced before this Court to verify the classification in respect of the land in question. However, the writ petitioners themselves admit that the land in question is classified as "Grama Natham".

5. May that it be.

6. The respondents 1 and 2 are bound to verify the classification with the revenue records. If it is a Government land, then appropriate actions are to be initiated for eviction of the encroachers. The Government lands and the water bodies

are to be protected in all respects in accordance with law. The officials concerned are duty bound to evict the encroachers in respect of Government lands and water bodies, which are all to be utilised for the welfare of the public at large and in the interest of public administration.

7. Encroachments in Government lands and water bodies are to be construed as an offence. Thus, there cannot be any leniency or misplaced sympathy in respect of allowing the encroachers to continue in possession and in respect of Government lands and water bodies. Thus, the respondents have to verify all these factors in respect of classification of land and other aspects and thereafter, take a decision, whether the writ petitioner is eligible to get patta or not. Even in case of grant of free patta to landless poor people, the same is to be granted only if a Scheme is formulated by the Government. Even in case of a Scheme, the same is to be implemented uniformly and without causing any discrimination amongst the similarly placed persons.

8. A Scheme is to be implemented strictly in accordance with the terms and conditions stipulated in the Government Orders and providing equal opportunity to all the similarly placed landless poor people. However, in the absence of any Scheme, the persons, who all are encroaching the Government lands, are liable to be evicted by following the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905.

9. This being the principles to be followed, the respondents are directed to verify the revenue records in respect of the lands under the possession and enjoyment of the writ petitioner and initiate appropriate actions by following the procedures contemplated under the law.

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

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

Svn

To

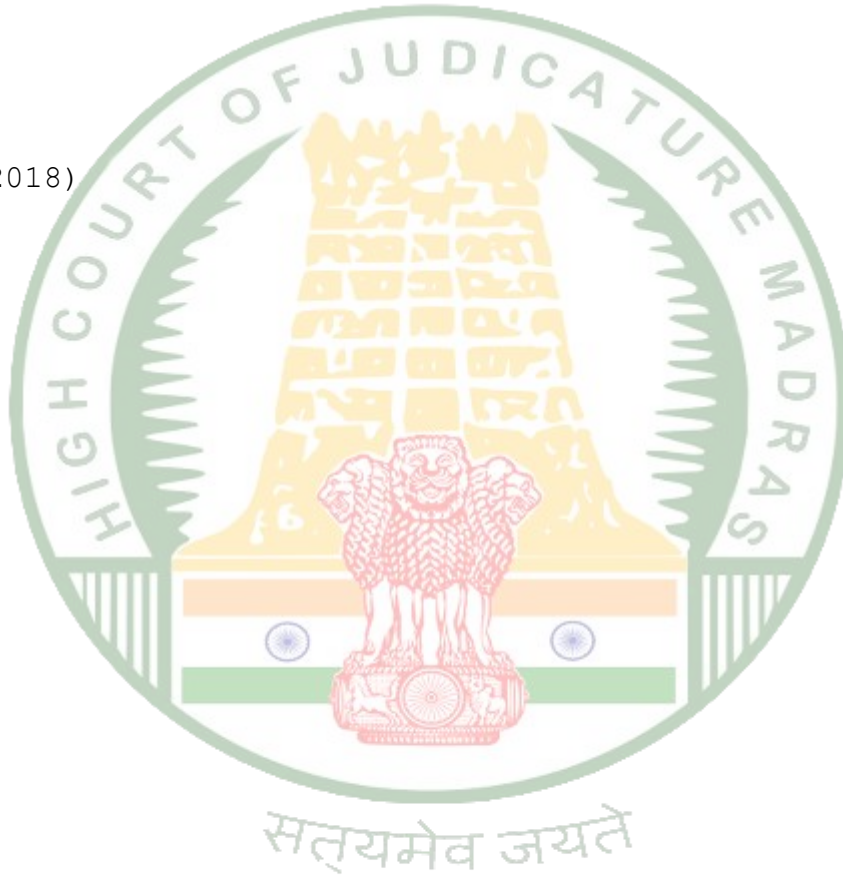
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+1 CC to Mr.S.V.S. Elamvazhuthi, Advocate sr 63524.
+1 CC to Govt. Pleader sr 63530

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RSK(CO)
SP(26/09/2018)



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