

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :09.08.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

WP.No.22577 of 2017
and WMP.No.23700 of 2017

1.D.Jeevanadham
2.D.Kasthuri
3.P.Kumar
4.P.Narayanan
5.E.Raveendran
6.S.Suguna
7.Sakuntala Swamy

....Petitioners

vs

1. The District Collector
Chennai District
Chennai - 600 113.

2. The Thasildar,
Velachery Taluk Office,
Chennai 600 113.

3. The Asst. Director
Land Survey Record Department
Chennai - 600 001.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 1st respondent vide impugned order vide proceedings Se.Mu.Aa.No.J2/24861/16 dated 30.06.2017 and quash the same and consequently directing the 1st and 2nd respondents to issue Patta in favour of the Petitioners pertaining their respective door numbers and the extent stated in the S.No.4/1, Old Survey No.80/part, Kalikundram Village, Velachery Taluk measuring an extent of 1200 Sq.ft., 1279 Sq.ft., 560 Sq.ft., 1125 Sq.ft., 1125 Sq.ft., 600 Sp.ft. And 1100 Sq.ft..

For Petitioners : Mr.T.Ramachandran

For Respondents : Mrs.A.Srijayanthi
Special Government Pleader.

O R D E R

The order of rejection of the writ petitioner for grant of Patta issued by the District Collector in proceedings dated 30.06.2017 is under challenge in this writ petition and further direction is sought for to direct the respondents 1 and 2 to issue Patta in favour of the writ petitioner in respect of Door Numbers and the extent stated in S.No.4/1, Old Survey No.80/part, Kallikundram Village, Velachery Taluk, measuring an extent of 1200 Sq.ft., 1279 Sq.ft., 560 Sq.ft., 1125 Sq.ft., 1125 Sq.ft., 600 Sp.ft. And 1100 Sq.ft..

2. The learned counsel appearing for the petitioner made a submission that the writ petitioners are in occupation and possession of the properties described in the writ petition and the details of their occupation are enumerated as under:

'1. The first petitioner herein and I am well acquainted with the facts of the case. I am filing this affidavit on behalf of 2 to 7th petitioners who are all owners of the petition property. I am filing this affidavit on behalf of other petitioners also since all the petitioners are residing in the same Survey Numbers except extent of aldn and they are challenging the common order passed by the 1st respondent. The petitioners may be permitted to file jointly a single writ petition in this Hon'ble court.

2. I submit that I am in occupation and possession of the property comprising the town survey No.4/1 Old Survey No.80/ part bearing door No.1/17 Pillayar Koil Street, Kalikundram, Chennai 600 113 measuring an extent of 1200 Sp. Ft. The above said property presently situated within the Chennai Corporation limit, Velachery Taluk.

3. I submit that the 2nd petitioner Mrs.D.Kasthuri is in possession of the property bearing Door No.22/28, Pillayar Koil Street, Kalikundram, Chennai - 600 113, measuring an extent of 1279 Sq.ft.

4. I submit that the 3rd petitioner Mr.P.Kumar is in possession of the property bearing Door No.1/11, Pillayar Koil Street 2nd street, Kalikundram, Chennai - 600 113, measuring an extent of 560 Sq.ft.

5. I submit that the 4th petitioner Mr.P.Narayanan, is in possession of the property bearing Door No.12, Pillayar Koil Street, Kalikundram, Chennai - 600 113, measuring an extent of 1125 Sq.ft.

6.I submit that the 5th petitioner Mr.E.Raveendran is in possession of the property bearing Door No.12, Pillayar Koil Street (Anna Street), Kalikundram, Chennai - 600 113, measuring an extent of 1125 Sq.ft.

7.I submit that the 6th petitioner Mrs.S.Suguna is in possession of the property bearing Door No.18/12, Pillayar Koil Street, Kalikundram, Chennai - 600 113, measuring an extent of 600 Sq.ft.

8.I submit that the 7th petitioner Mrs.S.sakunthala Swamhy is in possession of the property bearing Door No.13/15, Pillayar Koil Street, Kalikundram, Chennai - 600 113, measuring an extent of 1100 Sq.ft''.

3. All the petitioners are having electricity service connection in their respective premises and they are paying the electricity charges as per the terms and conditions of the Electricity Board. The grievances of the writ petitioners are that the Government issued G.O.Ms.No.854/2006, Revenue Department, dated 30.12.2006 for grant of Patta in respect of the house sites as per the terms and conditions. The said Government Order stipulates certain terms and conditions for grant of Patta. The learned counsel appearing for the petitioners states that as per Clause 4 of the above Government Order, even for the cancellation of Government Order, the respondents has to consider the case of the writ petitioners for grant of Patta, since the petitioners are in occupation of the premises. Thus, the grounds raised in the impugned order that the Government Order is not in process cannot be accepted. Even in the absence of the Government Orders, the authorities are empowered to grant Patta in respect of the lands, which are all in occupation of the petitioners herein.

4. The learned Special Government Pleader opposed the contention by stating that the writ petitioners are encroachers and they are not in legal occupation of the premises and the premises in occupation of the writ petitioners are Government lands. However, the scheme introduced by the Government in G.O.Ms.No.854/2016, Revenue Department, dated 30.12.2006 is one time scheme and if the implementation of the said scheme is in respect of the beneficiaries, the Government Order cannot be invoked for the present writ petitioners. The said Government order is issued for grant of onetime house site Patta to the landless poor people who are in occupation of the Government lands. Therefore such scheme cannot be extended for an indefinite period. The Government also clarifies that the Government order is in force as on the date of scheme set out by the writ petitioners. Thus, the writ petitioners are to be treated as encroachers and they are liable to be evicted under the provisions of Tamil Nadu Land Encroachment Act, 1905.

5. This Court is of an opinion that the Government orders for grant of Patta is one time house site Patta and the scheme cannot be continued forever. The said Scheme has also been implemented in respect of group of people. If at all any new

scheme is introduced then alone, the case of the writ petitioners may be considered in accordance with the terms and conditions to be stipulated by the Government. Mere continuance of the writ petitioners in the Government lands will not constitute a ground or a legal right to claim Patta in respect of such Government lands. Encroachers cannot claim Patta. Patta can be granted in favour of the owner under Section 3 of the Patta Passbook Act. In all other circumstances, the Patta can be granted by the Government if a policy is created for grant of Patta to the poor landless people. In the absence of any such schemes or rules, the Government authorities cannot grant Patta in respect of the lands which are all encroached by the persons. All encroachments are to be removed and the public lands are to be utilised for the public purpose and in the interest of public, if large number of Government Lands are encroached by persons, then it is very difficult for the State to implement the welfare scheme for the welfare of the public at large. Thus grant of Patta in respect of the Government Lands is the policy decision to be taken by the Government and such policy decision are to be taken judicially and without affecting the interest of public at large. Even the Government cannot grant Patta in a routine manner in respect of public lands, the scheme in favour of the poor landless people is to be created without affecting the public schemes and the lands which are all used for the public purposes in the larger interest of the public.

6. This being the principles to be followed, grant of Patta, even by the Government, is impermissible under law in a routine manner. This being the principles to be followed, this Court is of an opinion that this Court cannot issue any direction for grant of Patta in respect of the premises in occupation of the writ petitioners. As far as Government orders passed in G.O.Ms.No.854/2016 dated 30.12.2006, is concerned, it is the onetime scheme and the scheme has already been implemented and the writ petitioners cannot claim any benefit from and out of the Government order. If any new scheme is introduced by the State for grant of Patta, then the case of the writ petitioners shall be considered along with all other eligible candidates without any discrimination.

7. This being the principles to be followed, the writ petitioners have not established any legal right for grant of Patta and the relief as such sought for cannot be granted in this writ petition. Accordingly there is no infirmity as such in respect of the impugned order passed by the respondents.

8. The writ petition stands dismissed with the above observation. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sk/vv2

To

1. The District Collector
Chennai District
Chennai - 600 113.
2. The Thasildar,
Velachery Taluk Office,
Chennai 600 113.
3. The Asst. Director
Land Survey Record Department
Chennai - 600 001.

+3cc to Mr.T.Ramachandran, Advocate, S.R.No.54563.
+1cc to the Government Pleader, S.R.No.55049.

WP.No.22577 of 2017

CA(CO)

rrs 12/09/2018

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