

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23531 of 2014

and

MP.No.1 of 2014

1.B.Manoharan

2.B.Sakkubai

3.B.Kumar

... Petitioners

Versus

1.District Revenue Officer,
Perambalur District,
Perambalur.

2.Revenue Divisional Officer,
Perambalur District,
Perambalur.

3.Arumbavur Town Panchayat
Rep. by its President-S.Ramasamy,
Arumbavur, Veppanthattai,
Perambalur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in his proceedings No.N.M.C/2767/2013 passed on 24.07.2014, confirming the order of the second respondent in his proceeding No.M.M.A4/5786/2012 passed on 29.01.2013, regarding the petitioners' land of an extent of 3450 sq.ft situated in S.No.495/6A, 495/6B in Arumbavur Village, Veppanthattai Taluk, Perambalur District, quash the same and further direct the third respondent not to use the petitioners' lands for any public purpose illegally.

For Petitioners : Mr.V.Ravi

For Respondents : Mrs.A.Sri Jayanthi,
Special Government Pleader

O R D E R

The order passed by the District Revenue Officer, Perambalur confirming the order of cancellation of patta passed by the Revenue Divisional Officer is under challenged in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioners states that the writ petitioners are the owners of the land situated in Survey No.495/6A and 495/6B and the said land was acquired by the writ petitioners through a gift deed and by way of a Settlement Deed, subsequently, in document No.5451/1956 on the file of the Registrar Office, Tiruchirapalli dated 19.11.1956. One Rukmani Ammal settled the property measuring 3450 Sq.Feet in favour of R.Balakrishna Reddiar, father of the first petitioner, and Bangarusamy Reddiar alias Ramasamy Reddiar. In the Settlement Deed, the past history in relation of the said property has been narrated. Therefore, the writ petitioners are having a clear title over the property and in possession of the same.

3.The learned counsel appearing for the writ petitioners further states that the Revenue Divisional Officer passed an order on 29.01.2013, cancelling the patta granted in favour of the petitioners without proper adjudication. Documents filed by the writ petitioners have not been considered by the Revenue Divisional Officer. Finally, patta granted in favour of the writ petitioners was cancelled. Challenging the said order passed by the Revenue Divisional Officer, the writ petitioners preferred a Revision Petition under the Patta Pass Book Act before the District Revenue Officer. The District Revenue Officer also confirmed the order passed by the Revenue Divisional Officer. Thus, the present writ petition is filed challenging the order passed by the District Revenue Officer dated 24.02.2014.

4.The learned counsel appearing for the writ petitioners states that the land belongs to the petitioners is stated as Natham by the respondents. This apart, Arumbavur Town Panchayat is proposed to take the said land for developing the children park in that location. Under these circumstance, the patta was issued in favour of the writ petitioners both by the Revenue Divisional Officer and District Revenue Officer. The petitioners admit that the civil suit in O.S.No.396 of 2012 was filed for permanent injunction and now, the learned counsel appearing for the petitioners states that Ex-parte decree was passed in the civil suit.

5.May that it be, this Court is of an opinion that if at all the writ petitioners claim title and ownership in respect of the property, the same is to be adjudicated before the

Competent Civil Court of Law, in accordance with the procedures contemplated under the Civil Procedure Code. Title and ownership of the writ petitioners cannot be adjudicated before this Court in this writ petition, nor this Court shall give any finding in respect of the submission made in relation to the title of the property. Whenever there is a dispute in respect of the classification of the land or if any other person claims title and ownership of the property in question, then the respective parties are at liberty to approach the Competent Civil Court of Law.

6. Title cannot be ascertained nor confirmed. However, it is brought to the notice of this Court that the writ petitioners are residing adjacent to the land which is in question. Land in question is a vacant land. Further, Mr. Saranraj, Junior Assistant of Arumbavur Town Panchayat, who is present before this Court informed that already basement was constructed for the purpose of developing children park for the benefit of the children who are all residing in that locality. Under these circumstances, this Court is of an opinion that the Natham land is going to be utilized for the purpose of the welfare of the people of that locality, then the writ petitioners if at all claim any title, the same is to be adjudicated before the Competent Civil Court of Law.

7. The learned counsel appearing on behalf of the writ petitioners states that no such basement was constructed in the land belongs to the writ petitioners. However, if the land now claim by the writ petitioners is a Natham and belongs to the Government, then the writ petitioners may not have any right to continue in the said land, if the writ petitioners are so aggrieved from and out of the decision taken by the respondent, it is left open to the writ petitioners to approach the Civil Court for declaration of title and ownership.

8. This apart, mere grant of patta will not confer a title or ownership in respect of the property. Title is to be established in the manner known to law. This being the factum of the case, this Court is of an opinion that the findings arrived both by the Revenue Divisional Officer and District Revenue Officer cannot be found fault with. At this stage, since the writ petitioners have to establish their title and ownership before the Competent Civil Court of Law.

9. The learned counsel for the writ petitioners brought to the notice of this Court that the Officials of Arumbavur Town Panchayat had not appeared before the Competent Civil Court of Law and an Ex-parte decree was passed. If the officials are negligent and committed an Act of dereliction of duty, in this regard, the District Collector is bound to look into the matter and take appropriate disciplinary action against all

the officials concerned. The public servants are bound to maintain the Government lands intact even, there are encroachment or otherwise, appropriate actions are to be taken under the provisions of law.

10. When it is represented that none appeared on behalf of the Arumbavur Town Panchayat in respect of the public land then, it is a serious aspect to be considered by all the officials concerned. The District Collector is directed to look into the matter and initiate appropriate disciplinary action against all the officials who have committed an act of negligence and dereliction of duty in not representing the Arumbavur Town Panchayat before the Court concerned.

11. Registry is directed to communicate the copy of the order to the District Collector, Perambalur District. In this view of the matter, this Court is of an opinion that there is no infirmity in respect of the decision taken by the respondents in the matter of cancellation of patta granted in favour of the writ petitioners.

12. Accordingly, the writ petition is devoid of merits and stands dismissed. Consequently, the connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. District Revenue Officer,
Perambalur District, Perambalur.

2. Revenue Divisional Officer,
Perambalur District, Perambalur.

3. Arumbavur Town Panchayat
Rep. by its President-S. Ramasamy,
Arumbavur, Veppanthattai,
Perambalur District.

+1cc to Government Pleader SR.No.32842

SVI (CO)

sm:29.5.2018

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and

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