

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.1500 of 2014

And

M.P.No.1 of 2014

Marudhammal

.. Petitioner

Vs.

1.The State represented by its Secretary,
Department of Revenue,
Fort St. George,
Chennai-600 009.

2.The District Collector,
Perambalur District,
Perambalur.

3.The District Revenue Officer,
Collectorate Building,
Perambalur.

4.The Tahsildar,
Kunnam Taluk Office,
Kunnam,
Perambalur District.

..Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent authorities to issue patta to the petitioner for the area in her possession and enjoyment for more than 50 years in Oor Natham Land situated in Survey No.59 of Maruvaththur Village, East Street, Maruvaththur Post, Perali Panchayat, Kunnam Taluk, Perambalur District-621 708, measuring about 580 sq. ft., considering her representation dated 21.12.2013.

For Petitioner
For Respondents

: Mr.V.Vargees Amal Raja
: Mr.R.S.Selvam,
Government Advocate.

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondent-authorities to issue patta to the writ petitioner for the area in her possession and enjoyment for more than 50 years in Oor Natham Land situated in Survey No.59 of Maruvaththur Village, East Street, Maruvaththur Post, Perali Panchayat, Kunnam Taluk, Perambalur District 621 708, measuring about 580 sq. ft., considering her representation dated 21.12.2013.

2. The learned counsel, appearing on behalf of the writ petitioner, states that the writ petitioner is in possession and enjoyment of the property described in the writ petition for more than 50 years. The family of the writ petitioner is engaged in agricultural works and they are working as agricultural coolies. The land under occupation is classified as "Oor Natham Land" situated in Survey No.59 of Maruvaththur Village, East Street, Maruvaththur Post, Perali Panchayat, Kunnam Taluk, Perambalur District 621 708. The claim of the writ petitioner is that the family of the writ petitioner has constructed thatched huts and settled down in the abovesaid Oor Natham land for decades and therefore, patta should be granted in their favour.

3. In respect of WP No.1500 of 2014, the District Collector, Perambalur, has stated as follows:-

"It is stated that the land in S.F.No.59 to an extent of 3660 sq. mt., which is classified as Government Natham Poramboke has been subdivided into S.F.No.59/1 (Mariamman Koil to an extent of 300 sq. mt.) and S.F.No.59/2 (School) to an extent of 3360 sq. mt. Besides, Co-operative Milk Producer's Society, Passenger's waiting shed, Noon Meals Centre and school buildings are also existed. The writ petitioner Tmt.Marudhammal, W/o.(late) Vadivel has owned a Tiled house in S.F.No.372/3 in Natham Patta holding No.502 in her husband name and another house in S.F.No.372/8 in Natham Patta holding No.372 in her name. The petitioner has further encroached to an extent of 4 sq. mt. in S.F.No.59/2 by way of construction of bathroom. It is ascertained that the bathroom has been put up 3 years back only with a view to encroach in Government Natham Poramboke land. Hence the

request of petitioner to issue patta for the encroached area could not be considered as she has already possessed two houses in Natham S.F.No.372/3 and 372/8 in her own and also in her husband name who is passed away. Further, it is stated that the contents of the petitioner that the encroached area is in her possession for more than 50 years is not maintainable."

4. The respondents have stated that the writ petitioner is an encroacher and constructed a thatched house and a bathroom in the land belongs to the Government, which were classified as "Government Natham Poramboke". Therefore, the patta cannot be granted in favour of the writ petitioner.

5. The learned counsel for the writ petitioner states that the writ petitioner is an agricultural coolie and therefore, she has no other means of livelihood and accordingly, patta should be granted.

6. This Court is of an opinion that the Government is formulating certain Schemes to provide free land to the landless poor people. Whenever such Schemes are formulated or lands are acquired for the purpose of granting house sites to the landless poor people, the writ petitioner may submit her application and in the event of submitting any such application to the competent authorities, the authorities are empowered to consider the same as per the terms and conditions stipulated in the Government Order.

7. It is made clear that while implementing such welfare Schemes to the poor and landless people, the authorities competent are bound to follow the terms and conditions and the benefit to be extended to all the similarly placed persons, without any discrimination. Thus, if the writ petitioner is otherwise eligible in accordance with the terms and conditions of the Scheme, if any, implemented, the same may be extended by the authorities competent at the time of granting the benefit in accord with the Government Schemes.

8. However, the Courts cannot encourage the encroachers to stay under the land, which belongs to the Government. If such encroachments are encouraged, then the writ petitioner will be tempted to occupy the public lands without any authority. The public lands are meant for the public usage and the same must be utilised for the public welfare and in the interest of public administration. The private individuals can never be permitted to encroach the public lands at their own wish. The authorities competent, in this regard, are bound to protect the Government

lands intact or if any violation on the part of the officials are to be viewed seriously.

9. The District Collector, in this regard, has to conduct periodical review meetings of the Revenue Officials and issue suitable orders, directing all such Officials to initiate actions in respect of encroachments in his jurisdiction. If there is any negligence or dereliction of duty on the part of the Officials, then the District Collector is bound to initiate suitable disciplinary actions on all such officials under the Discipline and Appeal Rules. There cannot be any leniency in respect of initiating action against such erring officials, who have failed to protect the Government lands and Government properties. The District Collector is bound to conduct such review meetings periodically to ensure that the Government lands are protected in accordance with law.

10. In the present case on hand, admittedly, the writ petitioner has constructed a house and a bathroom in Government Natham Poramboke. A mere continuance in the said portion of the land will not confer any legal right to the writ petitioner to claim patta. Continuous possession of the public land will not confer or provide a cause of action for claiming patta. Admittedly, the writ petitioner is in occupation of a Government land and therefore, the authorities competent are bound to initiate action and evict the writ petitioner by following the procedures contemplated under the provisions of the Tamil Nadu Land Encroachments Act, 1905.

11. However, if those persons, including the writ petitioner, are eligible to avail the Government Schemes, then the authorities shall consider the same and grant suitable reliefs as per the terms and conditions of the Schemes, if any, implemented by the Government. Except this, the authorities cannot allow such encroachers to continue in the public lands, so as to cause hindrance or inconvenience to the public at large. All public lands are intact and the respondents are directed to ensure initiation of all suitable actions without any further delay and ensure that the encroachers are evicted without any leniency or further delay.

12. The District Collector, in his counter statement, has categorically stated that the writ petitioner has already possessed two houses in Survey Nos.372/3 and 372/8 in her own and in her husband's name, who passed away subsequently. Therefore, the writ petitioner may not be eligible for a free house sit as per the Government Schemes. The respondents shall once again verify whether the writ petitioner is owning any property in that locality or not. If she is already owning a land either in her name or in her husband's name, then the writ

petitioner is not entitled to claim any benefits under the Government Schemes for grant of free house sites.

13. This being the factum of the case, the writ petitioner has not established even a semblance of legal right, so as to consider the relief, as such, sought for in this writ petition.

14. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

Svn
To

1. The Secretary,
State of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai-600 009.

2. The District Collector,
Perambalur District,
Perambalur.

3. The District Revenue Officer,
Collectorate Building,
Perambalur.

4. The Tahsildar,
Kunnam Taluk Office,
Kunnam,
Perambalur District.

+1 CC to Govt. Pleader sr 5834.

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WP.1500 of 2014

SP(06/09/2018)