

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.26178 of 2014

and

M.P.No.1 of 2014

A.Lakshmanan

... Petitioner

Vs.

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

2. The Additional District Judge cum District Revenue Officer, Coimbatore.

3. The Revenue Divisional Officer, Coimbatore.

4. The Tahsildar, Metupalayam, Coimbatore.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in Pa.Mu.No.8373/12/E1, dated 24.06.2013 and quash the same and directing the authorities to issue patta for the 0.46 cents in Survey No.637 of Illupanatham Village, Metupalayam Taluk, Coimbatore District.

For Petitioner : Mr.Kandhan Duraisami

For Respondents : Mr.D.Raghu
Government Advocate

O R D E R

The order of rejection dated 24.06.2013 in respect of the claim of the writ petitioner for reclassification of his land and to grant patta in his favour, is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner strenuously contended that the petitioner, by virtue of family partition, acquired 0.46 cent of land in S.No.637 of Illupanatham Village, Metupalayam Taluk, Coimbatore District. The petitioner claims that the said land

is an ancestral property and a patta land. The Patta Pass Book was issued way back in the year 1931, in Patta No.500. The original patta was granted in the name of the father of the writ petitioner and therefore, the writ petitioner is entitled for grant of patta in his favour, as per the provisions of the Tamil Nadu Patta Pass Book Act, 1983.

3. The learned counsel for the petitioner states that the subsequent patta issued in Patta No.581, also reveals that the father of the writ petitioner is the owner of the property. Thus, the said patta granted in favour of the writ petitioner's forefathers must be granted in favour of the writ petitioner also.

4. It is contended by the petitioner that the Tahsildar, Mettupalayam, Coimbatore, in her letter dated 05.05.2011, has stated that the land in question was wrongly described as 'Karadu' in village records and in fact, the land was in the possession and enjoyment of the family of the writ petitioner. The family of the writ petitioner were cultivating the land by planting 'Arasani'. Thus, the classification of the land as 'Karadu' in revenue records is erroneous and therefore, the said entries are to be altered by way of reclassification and accordingly, the writ petitioner is entitled for grant of patta.

5. The learned Government Advocate appearing on behalf of the respondents opposed the contention, by stating that the land in question is classified as 'Karadu' which is a Poramboke land. The 'A' Register, which is produced before this Court, also shows that the land is classified as 'Poramboke Kallanguthu'. Therefore, the land which is in possession and enjoyment of the writ petitioner is a Poramboke land and patta cannot be granted by the respondents. Thus, there is no infirmity in respect of the impugned order passed by the 2nd respondent. The impugned order also states that the revenue records show that the land in question is classified as 'Poramboke Karadu'. Thus, the grant of patta is rejected.

6. This Court is of an opinion that patta cannot be granted in respect of the Government Poramboke lands, water bodies and water resources. The competent authorities, while exercising the powers under the provisions of the Tamil Nadu Patta Pass Book Act, 1983, must verify the classification of the land with reference to the revenue records, maintained by the district administration and thereafter, consider the case of the persons, on merits and in accordance with law. Even if patta was granted earlier, by some officials, the genuineness of the same should be verified with reference to the revenue records and in the event of any wrong issuance of patta, the authorities competent, must initiate appropriate proceedings even against the officials, who erroneously issued patta contrary to the entries made in the revenue records. Thus,

while granting patta under the provisions of the Tamil Nadu Patta Pass Book Act, 1983, the competent authorities are bound to verify the revenue records and thereafter, consider the case of the persons, who are submitting their applications for grant of patta.

7. It is frequently noticed that patta are granted by some officials in a routine manner, without verifying the revenue records, maintained in the office of the district administration. Such issuance of patta must be properly scrutinized and suitable actions are to be initiated, in order to maintain the public lands for the welfare of the public at large. On account of growing market value of the lands, this Court is of an opinion that the public authorities must be vigilant in respect of maintaining the public lands, water bodies and water resources.

8. Few greedy men are tempted to encroach such Government lands and water bodies for their personal gains. In the event of allowing such encroachment, the rights of other citizens will be infringed. Encroachment is a grave offence. If such encroachments are permitted, then the welfare of the public will be paralyzed. Government lands, water bodies and water resources are to be protected as per the provisions of law, for the welfare of the public at large. The public lands are to be utilised for implementing welfare schemes, and thus, the encroachers and the occupiers, who are occupying the Government lands, water bodies and water resources are to be evicted by following the procedures, as contemplated under the Tamil Nadu Land Encroachments Act, 1905, and the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

9. In the present writ petition on hand, the writ petitioner claims that he is the owner of the property. He claims that the patta was granted way back in the year 1931. The property is an ancestral property and the petitioner claims that the entries in the revenue registers were made erroneously, and therefore, the land is to be reclassified as patta land, enabling the petitioner to get patta.

10. When such a submission is made, this Court is of an opinion that the authorities competent are bound to verify the same with reference to the original records and thereafter, take a decision on merits and in accordance with law. However, it is brought to the notice of this Court that the land in question is classified as 'Karadu and Poramboke'. A certified copy of the 'A' Register and the Resettlement records were produced before this Court by Mr.V.P.Chandran, Head Quarters Deputy Tahsildar, Mettupalayam Taluk, Coimbatore District, which shows that the land in question is classified as 'Karadu and Poramboke'.

11. This being the factum of the case, the original revenue records maintained by the district administration

shall once again be verified by the authorities competent, and thereafter, if it is found that the Government land is in encroachment, then appropriate actions are to be taken for eviction of all those encroachers, and if the land in question is found to be a patta land, then suitable action is to be taken for considering the application submitted for grant of patta.

12. The learned counsel for the petitioner states that the land under the possession and enjoyment of the writ petitioner is not a 'Karadu' land and it is a plain land, where there is no rocky area. Thus, the very classification of the land as 'Karadu' is erroneous. However, this aspect is to be verified by the competent authorities by conducting a field inspection and with reference to the revenue records.

13. If at all, the petitioner is the owner of the property and the land in question is a patta land, it is left open to the petitioner to approach the appropriate Civil Court of law for establishing his civil rights.

14. On account of growing trend of encroachment of Government lands, water bodies and water resources, it is necessary to direct the District Collector, Coimbatore, to conduct review meetings for identifying such encroachments in the Government Poramboke lands, water bodies and water resources. The District Collector, Coimbatore, is directed to issue suitable orders and instructions to all the officials to initiate appropriate actions to evict all such encroachments from the Government Poramboke lands, water bodies and water resources. In the event of any negligence or dereliction of duty on the part of the Government officials concerned, then the District Collector is bound to initiate suitable disciplinary proceedings against such officials, under the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

15. It is the duty of the district administration to maintain the Government lands and Government properties. Such public lands are to be utilised for public welfare schemes and encroachment of such properties amounts to infringement of rights of all other citizens. Thus, there cannot be any leniency, while dealing with the encroachment of Government lands, water bodies and water resources.

16. These being the principles to be followed, the following orders are passed:

(i) The impugned order passed by the 2nd respondent in Proceedings Pa.Mu.No.8373/12/E1 dated 24.06.2013, stands confirmed.

(ii) The District Collector, Coimbatore District, is directed to conduct review meetings with all the officials concerned, within two weeks from the date of receipt of a copy

of this order, and identify all the encroachments in Government Poramboke lands, water bodies and water resources, within his jurisdiction in Coimbatore District.

(iii) The District Collector, Coimbatore District, is directed to issue suitable orders/instructions to the officials concerned, to initiate actions to evict all such encroachments in Government Poramboke lands, water bodies and water resources, by following the procedures, as contemplated under the Tamil Nadu Land Encroachments Act, 1905, and the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007.

(iv) In the event of any failure, negligence or dereliction of duty on the part of the officials concerned, suitable disciplinary proceedings are to be initiated against such officials, under the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

(v) Suitable circulars are to be issued by the District Collector, instructing the authorities concerned, to take effective steps to protect all the Government lands, water bodies and water resources, within his jurisdiction.

17. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

To

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

2. The Additional District Judge cum District Revenue Officer, Coimbatore.

3. The Revenue Divisional Officer, Coimbatore.

4. The Tahsildar, Metupalayam, Coimbatore.

5. The District Collector, Coimbatore District.

+ 1 CC TO M/s.MUTHUMANI DORAISAMY, ADVOCATE SR 64517

+ 1 CC TO THE GOVT. PLEADER, SR 65043

KR10/10/18

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