

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28-06-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.23680 of 2015

And

M.P.No.1 of 2015

K.Kasiyammal

.. Petitioner

Versus

1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2.The Revenue Divisional Officer,
Thiruvannamalai,
Thiruvannamalai District.

3.The Tahsildar,
Thiruvannamalai,
Thiruvannamalai District.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents from dispossessing the petitioner from her property of land having an extent of 1320 sq. ft., and comprised in S.No.199.2 of Vettavalam Village, Thiruvannamalai Taluk and Thiruvannamalai District and further to direct the respondents to grant patta for assessing the land by levying kist for the property of the petitioner's land having an extent of 1320 sq. ft., as comprised in S.No.199.2 of Vettavalam Village, Thiruvannamalai Taluk, Thiruvannamalai District by disposing the representation of the petitioner dated 24.7.2015.

For Petitioner : Mr.P.G.Thiyagu

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

ORDER

The relief sought for in this writ petition is to forbear the respondents from dispossessing the writ petitioner from her property, which is a land, having an extent 1320 sq. ft.,

comprised in Survey No.199.2 of Vettavalam Village, Thiruvannamalai Taluk and Thiruvannamalai District and further direct the respondents to grant patta for assessing the land by levying Kist for the property of the writ petitioner's land having an extent of 1320 sq. ft.

2. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the property in question was originally owned by one Chinnasamy Naicker and Govindasamy and they sold the same in favour of the writ petitioner by a registered Sale Deed in Document No.144 of 1990 dated 7.11.1988 registered with Vettavalam Sub Registrar Office. Accordingly, the writ petitioner acquired the title over the property and the same is in absolute possession and enjoyment of the writ petitioner for the past four years from the date of filing of the writ petition.

3. The writ petitioner claims title over the property. Further, she claims that she purchased the said property through a Sale Deed, by paying the consideration and the document has been registered before the Sub Registrar Office. The learned Special Government Pleader, appearing on behalf of the respondents, states that the land now claimed by the writ petitioner is a Government Poramboke land classified as "unassessed waste-parai and lying waste". The writ petitioner is an encroacher of the said land. The purchase of the abovesaid land by the writ petitioner is not maintainable.

4. Thus, the writ petitioner is not eligible for grant of house-site even as per the Government Scheme or for grant of patta. The patta can be granted under a Scheme, if any, formulated by the Government in the interest of the public at large. However, the writ petitioner on the one hand claiming ownership and on the other hand, claiming patta from the Government. This apart, the site now the writ petitioner claims had already been transferred in favour of the State Registration Department, for the purpose of constructing Sub Registrar Office in the year 2016 by the first respondent and accordingly, the land had been handed over to the Registration Department.

5. In view of the fact that the land in question has been transferred to the State Registration Department for construction of Sub Registrar Office, the respondents have taken steps to evict the writ petitioner. Under those circumstances, the writ petitioner has moved the present writ petition.

6. This Court is of an opinion that the relief, as such, sought for in this writ petition to forbear the respondents from dispossessing the petitioner from her property, cannot be granted. If at all the petitioner claims that she is the owner

of the property, it is left open to the writ petitioner to approach the competent Civil Court of Law for establishing title, ownership or possession. The disputes in relation to title or ownership can never be adjudicated in a writ proceedings under Article 226 of the Constitution of India, nor such a prayer to forbear the respondents from dispossessing the petitioner can be entertained in a writ proceedings.

7. The learned Special Government Pleader, appearing on behalf of the respondents, states that the land now claimed by the writ petitioner is a Government Poramboke land classified as "unassessed waste-parai and lying waste". This apart, the said land has already been transferred to the State Registration Department. Thus, the question of granting patta in favour of the writ petitioner does not arise at all.

8. This being the factum of the case, this Court is of an opinion that the writ petitioner cannot establish any title in a writ proceedings. When the respondents claim that it is a Government Poramboke land, it is for the writ petitioner to establish her title or ownership before the competent Civil Court of Law.

9. This apart, now the land has already been allotted to the State Registration Department for the purpose of constructing Sub Registrar Office. This being the factum of the case, the writ petitioner has not established her any legal right for grant of any such relief, as such, sought for in this writ petition.

10. The respondents are bound to take immediate action in respect of encroachments by following the procedures contemplated under the Tamil Nadu Encroachment Act, 1905 and to evict the encroachers by following the procedures. There cannot be any delay in respect of eviction of encroachments of Government lands and the authorities competent are bound to perform their duties and protect the public lands in all respects and make use of the lands only for the public purposes and with the interest of the public at large. Thus, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

Svn

To

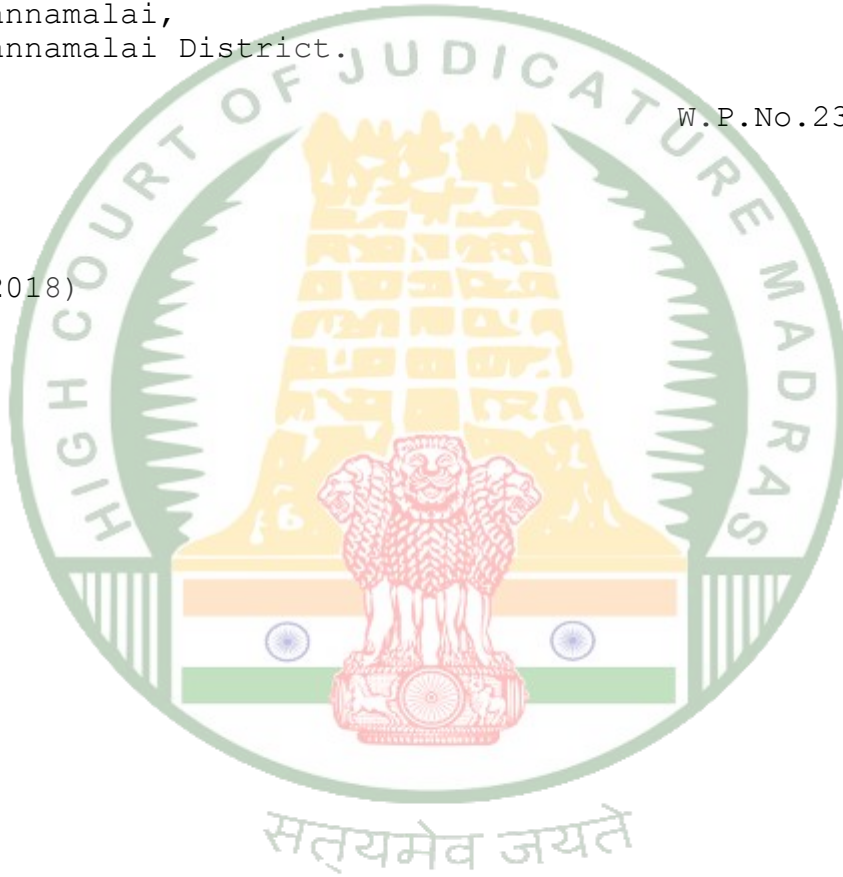
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CP (CO)
GN(10/07/2018)



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