

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1349 of 2013
and MP Nos.2 & 3 of 2013

J.V.D.Durai

... Appellant

versus

1. The Government of Tamil Nadu,
Rep by its Revenue, Secretary,
Fort St. George, Chennai 600 009.
2. The Special Commissioner and
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai 600 005.
3. The District Collector,
Tiruvallur District,
Tiruvallur.
4. The Tahsildar,
Ambattur Taluk,
Tiruvallur District.
5. M/s. Vel Tech Group of Institutions,
Rep. By its Founder & Chairman,
Mr.R.Rangarajan, Santhi Sudha,
No.38, Old No.24, ABM Avenue,
R.A.Puram, Chennai 28.
6. The Superintendent of Police,
CBCID, Chennai.

... Respondents

Writ Appeal filed under clause 15 of Letters Patent against
the order passed by this Court dated 20.02.2013 passed in
W.P.No.22708 of 2012.

Prayer in WP.No.22708 of 2012

Writ Petition filed under Article 226 of the Constitution of
India praying for the issue of writ of Mandamus to Direct the
Respondents 1 to 4 to remove the encroachments in S.No.294/2 ,
3, 4 and 5 in Morai Village Tiruvallur District and restore

and protect the same as Government Grazing Ground Poramboke.

For appellant : Mr.M.Vijaya Mehanath

For Respondent : Mr.M.Karthikeyan
Additional Govt. Pleader
for RR 1 to 4 & 6
Mr. Thangasivam for R5

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The challenge in this intra Court Appeal is to the order of the learned Single Judge made in WP No.22708 of 2012 dated 20.02.2013, in and by which, the Writ Petition filed by the petitioner was taken up along with other connected Writ Petitions and dismissed, directing the petitioner (appellant herein) to approach the appropriate Civil Court for redressal. The prayer in the Writ Petition for issuance of Writ of Mandamus directing the Authorities to remove the encroachment in Survey No.294/2, 3, 4 & 5 of Morai Village in Thiruvallur District and restore the same as a Grazing Ground Poramboke land.

2. A counter affidavit was filed by the 5th respondent in the said Writ Petition, wherein, it is specifically stated that Patta has been granted to the 5th respondent in respect of the said land as early as in the year 1995 and the same was confirmed by the Special Commissioner and Commissioner of Land Administration.

3. We have heard Mr.M.Vijaya Mehanath, learned counsel appearing for the appellant, Mr.M.Karthikeyan, learned Additional Govt. Pleader appearing for the respondents 1 to 4 & 6 and Mr. Thangasivam, learned counsel for the 5th respondent.

4. Once it is claimed that Patta has been issued by the Government to the 5th respondent in respect of the land, which are claimed to be grazing ground poramboke by the petitioner, a mandamus cannot be issued directing the respondents 1 to 4 to evict the 5th respondent as the 5th respondent cannot be termed as an encroacher.

5. Hence, we are of the considered opinion that the learned Single Judge was right in dismissing the Writ Petition. Accordingly, the Writ Appeal is dismissed. We however make it clear that it is open to the appellant, if so advised, to move

the Authorities for cancellation of patta said to have been granted in favour of the 5th respondent. There will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Revenue, Secretary,
Government of Tamil Nadu,
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2. The Special Commissioner and
Commissioner of Land Administration,
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Chennai 600 005.
3. The District Collector,
Tiruvallur District,
Tiruvallur.
4. The Tahsildar,
Ambattur Taluk,
Tiruvallur District.
5. The Superintendent of Police,
CBCID, Chennai.

+1cc to Mr.S.Senthil, Advocate, S.R.No.38842
+1cc to Mr.S.Thankasivan, Advocate, S.R.No.37767
+1cc to the Government Pleader, S.R.No.39180

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GSP(09/07/2018)