

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.27624 of 2014 and
M.P.Nos.1 & 2 of 2014

M.Padmanaban

... Petitioner

Vs

1. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.
2. The Collector of Chennai,
'Singaravelar Building',
Rajaji Salai,
Chennai - 600 001.
3. The Tahsildar,
Fort-Thondiarpet Taluk,
Chennai - 600 003.
4. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 2 and 4 to pass orders to assign the house site to the petitioner in Survey No.3850 and 3860 of Thondiarpet Village, Chennai District in No.1, Ezhil Nagar, 4th Street, Panakkaran Nagar, Kodungaiyur and issue patta to the petitioner based upon the representation made by the petitioner on 03.12.2013.

For Petitioner : No appearance

For Respondents : Mr.R.S.Selvam
Government Advocate for R1 to R3

: Mr.T.C.Gopalakrishnan
Standing Counsel for Greater Chennai
Corporation for R4

O R D E R

The relief sought for in the present writ petition is a direction to direct the respondents 2 and 4 to pass orders to assign the house site to the petitioner in Survey Nos.3850 and 3860 of Tondiarpet Village, Chennai District in No.1, Ezhil Nagar, 4th Street, Panakkaran Nagar, Kodungaiyur and issue patta to the petitioner based upon the representation submitted by him on 03.12.2013.

2. The affidavit filed in support of the writ petition states that the lands in S.Nos.3850 and 3860 of Tondiarpet Villgae, were originally classified as 'Government Poramboke' and has been declared as 'waste land', which were left unoccupied and unutilised by the Government. Thus, the said lands were occupied by many families including the family of the writ petitioner. The petitioner claims that he belongs to the Adi-Dravidar community and is repatriated from Burma and few other persons, who are also in occupation of the land, are repatriated from Burma and Andhra Pradesh.

3. The grievance of the writ petitioner is that he is in possession and enjoyment of the land in question, for many years. However, the petitioner states that the land is classified as 'Government Poramboke land'. The petitioner, along with the other similarly placed persons made a representation, which was not considered by the respondents. Earlier, the petitioner filed W.P.No.3999 of 2006 and this Court directed the authorities to consider the representation. However, the case of the writ petitioner and the other similarly placed persons were not considered for grant of patta by the authorities concerned. The repeated contention set out in the writ petition is that as per the Government Orders, the said Poramboke land can be allotted to landless poor people. The petitioner and the other similarly placed persons are in occupation of the land for many years. Thus, they are entitled for grant of patta in respect of the land in their possession and enjoyment.

4. The learned Government Advocate appearing on behalf of the respondents 1 to 3, disputed the contentions by stating that the land in S.Nos.3850 and 3860 of Tondiarpet Village, is recorded in the Permanent Land Register of Taluk Office, Tondiarpet Taluk, as follows :

'1 District	Chennai	Chennai
.		
2. Taluk	& Tondiarpet	Tondiarpet
Village		

3. Block No.	63	66
4. Survey No.	3850	3860
5. Extent	36 Cawnies - 23 Grounds - 0130 Sq.ft	40 Cawnies - 05 Grounds - 0411 Sq.ft
6. Classification	Government Poramboke	Government Poramboke
7. Description of the field	Waste on the western side of the Buckingham Canal	Waste on the western side of the Buckingham Canal''

5. It is contended that the Tahsildar, Tondiarpet Taluk, had inspected the above said lands on 27.08.2015. In the inspection report, the Tahsildar has asserted that the above said lands are used by the Greater Chennai Corporation for dumping the garbages. On the Eastern side of the land in question, there is a compound wall in six feet height. Adjacent to the compound wall, Buckingham Canal flows. There is a compound wall on the Southern side in ten feet height. Adjacent to the compound wall, there is a sewerage canal leading to the Sewerage Treatment Plant. The Tahsildar, Fort-Tondiarpet Taluk, in Proceedings No.A1/7256/1977, dated 10.04.1978 had levied Fair Competitive Rent (FCR) to the encroachers, who encroached the above said lands. During the rainy season, the excess water flowing in the above said two canals will emerge in the land in question viz., S.Nos.3850 and 3860 of Tondiarpet Village. The encroachers had constructed 14 small independent houses with tar sheets and one asbestos roofing house, adjacent to the dumping yard in the land in S.No.3850 of Tondiarpet Village. Electricity connection was given to the above dwelling houses by erecting five pillars based on the judgment of this Court, for supply of power. The dwellers of the above houses are using the pathway on the canal of Thoppai Vinayagar Koil Street, Ezhil Nagar.

6. It is further contended that the Government had already issued ban orders for assignment of land in Chennai city. Hence, for assigning the land in question in S.Nos.3850 and 3860 of Tondiarpet Village to the members of Ezhil Nagar People Welfare Association, orders of the Government relaxing the ban orders issued, have to be obtained. The issuance of patta in the absence of any such orders from the Government, is not possible. So far, no such orders have been passed by the Government, and thus, the competent authorities are not empowered to grant patta in respect of the land in question.

7. It is further contended that the land in S.Nos.3850 and 3860 of Tondiarpet Village is classified as Government Poramboke land, waste on the western side of the Buckingham Canal, and had already been allotted and handed over to the Tamil Nadu Slum Clearance Board, as per the Government Order in G.O.Ms.No.339, Revenue Department, dated 12.09.2001.

8. This Court is of an opinion that the land in question is classified as Government Poramboke land, even as per the affidavit filed by the writ petitioner. It is now brought to the notice of this Court that the said land was already allotted to the Tamil Nadu Slum Clearance Board. Therefore, in the event of utilising the said land for the purpose of establishing houses for houseless poor people, then the writ petitioner also may submit an application to consider his case on par with other similarly placed persons. It is needless to state that in the event of implementing any such scheme to provide land and houses to the landless poor people, the case of the writ petitioner shall also be considered on par with the other similarly placed persons, in accordance with the terms and conditions, to be formulated in the scheme.

9. However, this Court cannot encourage any such encroachments in respect of Government Poramboke lands. The Government Poramboke lands are to be utilised for the welfare of the public at large. Now, the land in question had already been allotted to the Tamil Nadu Slum Clearance Board. This being the factum of the case, the respondents are directed to evict any such encroachments in the Government Poramboke lands and the writ petitioner is at liberty to submit an application for grant of land in his favour, if and when, any scheme is introduced by the Government in this regard. Thus, the writ petitioner has not established any right for grant of legal patta in his favour, in the present writ petition. The respondents are directed to evict all such encroachments in the Government Poramboke lands, as per the provisions of the Tamil Nadu Land Encroachments Act, 1905. सत्यमेव जयते

10. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

mkkn

To

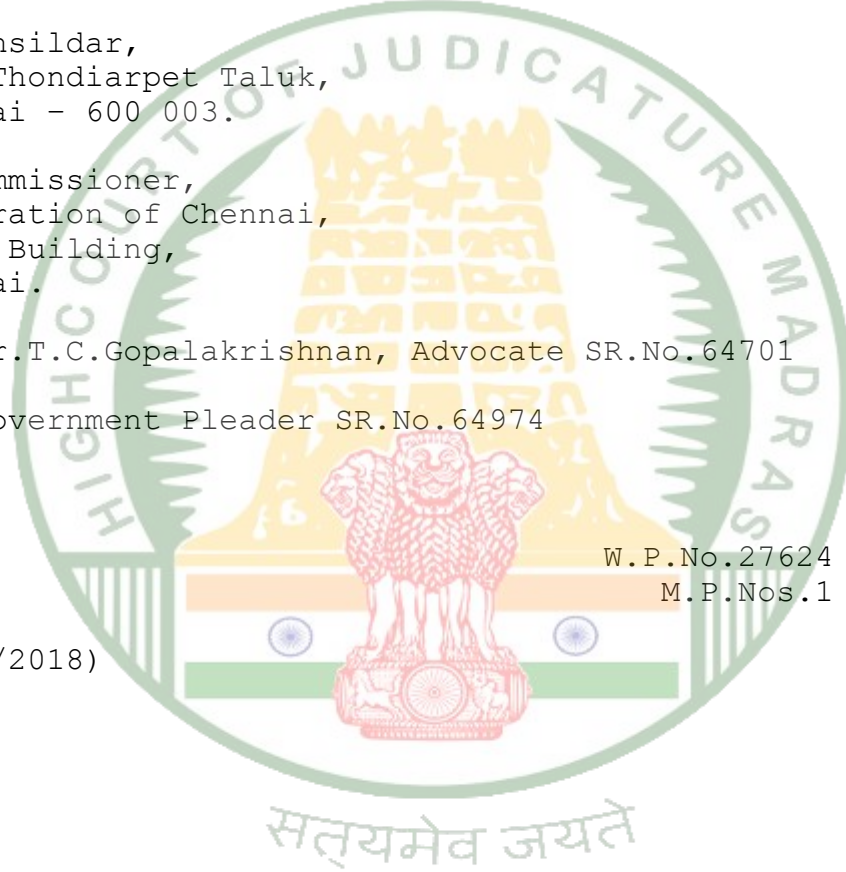
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+1cc to Mr.T.C.Gopalakrishnan, Advocate SR.No.64701

+1cc to Government Pleader SR.No.64974

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M.P.Nos.1 & 2 of 2014

GMY (15/10/2018)



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