

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.08.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30832 of 2013

Mallan

... Petitioner

Vs

1. The District Collector,
Dharmapuri District.

2. The Thasildar,
Palacode Taluk.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 2nd respondent to issue patta to the petitioner, based on the 30 years of possession under 1st respondent land allotment order in 1980.

For petitioner : No appearance

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The relief sought for in this writ petition is to direct the second respondent to issue patta to the writ petitioner based on the 30 years of possession under the first respondent land allotment order in the year 1980.

2. The petitioner states that he is a retired Army man from Indian Army and a land was allocated in S.No.281 Puchai Acre 3.00 during the year 1990 in Palacode Taluk. However, patta has not been issued in favour of the petitioner. The petitioner made several representations to grant patta in his favour, however the claim of the writ petitioner has not been considered at all. The only ground raised by the writ petitioner is that he is in possession of the said Government land for the past 33 years and therefore he is entitled for grant of patta. The representation

submitted by the writ petitioner in this regard has not been considered by the respondents. Thus the writ petitioner has constrained to move the writ petition.

3. The learned Government Advocate appearing on behalf of the respondents states that the submissions made by the writ petitioner in his affidavit are incorrect. The land in S.No.281 is not a dry Punchai land as stated by the writ petitioner. No Taram and no assessment were fixed by the Government in respect of the land described in the present writ petition. This apart the said survey field is classified as Manthaiveli i.e., for the usage for the cattles for their feed on grass. This land is purely reserved for the Public purpose mainly for the cattles from the very beginning of the survey. The encroachment made by the petitioner is highly unobjectionable as per rules and regulations in force and that the petitioner is not entitled for grant of patta in accordance with the provisions of the Patta Book Act.

4. This Court is of the opinion that admittedly the land in question belongs to the Government. The land in question is classified as "Manthaiveli" and left open for the benefit of the cattles in that locality. In such circumstances, the competent authorities cannot grant patta in favour of an individual and all those public lands are to be reserved for the welfare of the public and for the cattles for which the lands are classified.

5. This apart the writ petitioner has stated that he is in possession of the land, however the petitioner has not produced any document in respect of grant of patta or assessment in favour of the writ petitioner. In the absence of any such valid document the petitioner is not entitled for grant of patta. Mere possession will not confer any right in respect of any immovable property. Under these circumstances the petitioner has not established any legal rights so as to consider the relief as such sought for by the writ petitioner in this writ petition. Hence patta cannot be granted to the writ petitioner.

6. This apart the first respondent is bound to conduct a periodical review meeting in respect of the encroachments made within the jurisdiction and issue suitable orders to the subordinate officials to remove all such encroachments in that locality by following the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905. The District Collector is bound to identify all such encroachments within his jurisdiction with the assistance of the Subordinate officials within a period of six weeks from the date of receipt of a copy of this order. There cannot be any leniency in respect of the encroachments made by the private parties in Government land and the public properties are to be protected by the officials in

accordance with law and the District Collector in this regard shall ensure that the subordinate officials act promptly in respect of such encroachments and remove the same by following the procedures contemplated. If any negligence or dereliction of duty is found in respect of the action of the subordinate officials, then the District Collector is bound to initiate appropriate disciplinary proceedings against all such officials for their lapses, negligence or dereliction on duty. Public lands are to be left open for usage of public and for the welfare of public scheme. This being the legal principles to be followed, the respondents are directed to measure the land in occupation of the writ petitioner and initiate appropriate action in respect of the portion of the Government land which is under encroachment and appropriate action are to be initiated for eviction and to utilize the said land for the public purposes.

7. Accordingly the writ petition stands dismissed with the above directions. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

To

1.The District Collector,
Dharmapuri District.

2.The Thasildar,
Palacode Taluk.

+1cc to the Government Pleader, S.R.No.60612

NRL(CO)
GSP(10/10/2018)

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