

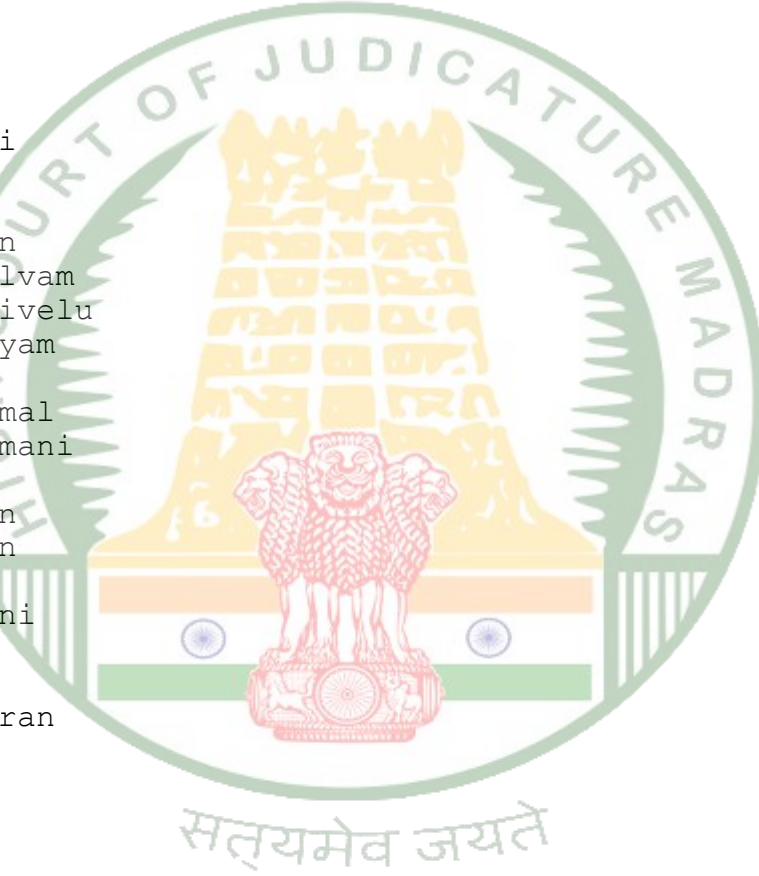
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27-08-2018
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3186 of 2013

- 1.S.Malliga
- 2.S.Sampath
- 3.V.Thirumuguan
- 4.V.Sekar
- 5.K.Natarajan
- 6.V.Mani
- 7.K.Vedhagiri
- 8.V.Dhinakaran
- 9.V.Ruthrakotti
- 10.B.Anbazhagi
- 11.S.Sambath
- 12.K.Sambanthan
- 13.K.Panneerselvam
- 14.K.Sundravadivelu
- 15.V.Subramaniyam
- 16.L.Vinayagam
- 17.G.Muthuperumal
- 18.V.Deivasigamani
- 19.Paramasivam
- 20.G.Lakshmanan
- 21.G.Venkatesan
- 22.Punniyakodi
- 23.A.Krishnaveni
- 24.A.Venugopal
- 25.A.Velautham
- 26.S.Muthukumaran
- 27.A.Anbu
- 28.M.Vijaya
- 29.S.Murugesan
- 30.M.Murugesan
- 31.V.Vasantha
- 32.B.Gandhimathi
- 33.S.Vijayakumar
- 34.K.Elangovan
- 35.K.Boobathy
- 36.G.Sankar



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.. Petitioners

Vs.

- 1.The Collector,
Kancheepuram Collectorate,
Kancheepuram District.
- 2.District Revenue Officer,
Kancheepuram District.

3.The Tahsildar,
Thirukkazhukundram,
Kancheepuram District.

4.Commissioner,
HR&CE Department,
Chennai.

5.Executive Officer,
Vedhagiriswarar Temple Devasthanam,
Thirukkazhukundram.

..Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in order Na.Ka.75208/2003/AA3 dated 6.9.2012 passed by the first respondent and to quash the same and direct the first respondent to issue patta by invoking the writ jurisdiction.

For Petitioners : Mr.L.J.Krishnamurthy

For Respondents-1to3: Mrs.A.Sri Jayanthn,
Special Government Pleader.

For Respondent-4 : Mr.M.Maha Raja,
Special Government Pleader(HR&CE)

For Respondent-5 : Mr.Sri Ram for
M/s.Kailasam Associates.

O R D E R

The order of the District Collector, Kancheepuram District, dated 6.9.2012, rejecting the claim of the writ petitioners for grant of patta, is under challenge in this writ petition.

2. The learned counsel, appearing on behalf of the writ petitioners, states that the writ petitioners are the bona fide purchasers of the portion of the land from their vendors and in possession and enjoyment of the same. When the writ petitioners had submitted their application for grant of patta, the District Collector conducted an enquiry and passed an order that the land belongs to the Government and it is classified as 'Poramboke Land'. Therefore, the writ petitioners are not entitled for the grant of patta in accordance with the provisions of the Patta Pass Book Act, 1983.

3. The learned counsel for the writ petitioners further states that the fifth respondent was of the opinion that the portion of the land belongs to the temple and therefore, the

writ petitioners shall obtain 'No Objection Certificate' from the fifth respondent-temple and so as to grant patta in their favour. Thus, it is contended that the land in part belonged to the Government and classified as 'Poramboke Land' and the portion of the land belonged to the fifth respondent-Temple. In respect of the temple properties, the District Collector permitted the writ petitioners to obtain the 'No Objection Certificate', enabling him to consider the case of the writ petitioners for grant of patta. In respect of Government land, the District Collector has rejected the claim of the writ petitioners for grant of patta. Thus, the writ petitioners are constrained to move the present writ petition.

4. The learned counsel, appearing on behalf of the fifth respondent-Temple, opposed the said contention of the learned counsel for the writ petitioners by stating that the entire portion of the land measuring 1.75 acres belongs to the fifth respondent-temple and the Deity is the owner of the land. Thus, the authorities cannot grant patta in favour of the writ petitioners in accordance with the provisions of the Patta Pass Book Act, 1983.

5. The learned counsel for the fifth respondent further states that the temple authorities are having documents to show that the land belongs to the temple and therefore, the rejection order passed by the District Collector is in accordance with law and there is no infirmity.

6. The learned Special Government Pleader, appearing on behalf of the respondents 1 to 4, also opposed the contention of the learned counsel for the writ petitioners by stating that the entire portion of the land is classified as 'Government Poramboke Land' and therefore, neither the fifth respondent-temple nor the writ petitioners have got any right to claim patta or ownership in respect of the said land. The District Collector had conducted an enquiry and rejected the claim of the writ petitioners on the ground that the land was classified as 'Government Poramboke Land'. Thus, there is no infirmity in respect of the order impugned in the writ petition and accordingly, the same is liable to be rejected.

7. This Court is of an opinion that even as per the learned counsel for the fifth respondent-temple a portion of the land was designated as "Grama Natham" and the said portion of the land belongs to the fifth respondent-Temple. Under these circumstances, the competent authorities are bound demarcate the portion of the land belongs to the temple as well as the remaining portion, which is classified as "Government Poramboke Land". In the event of clear demarcation, a decision shall be taken to deal with the property in the manner known to law. However, the writ petitioners are no way connected with the

entire property in view of the fact that the dispute now prevails between the classification of Government poramboke land and the temple property. If the fifth respondent-temple is able to submit relevant documents showing that the property belongs to the temple, then suitable orders shall be passed in this regard. If the entire land is classified as "Government Poramboke Land", then the District Collector has to initiate appropriate action to evict all the encroachers and thereafter, utilise the land for the public purposes and in the interest of the public.

8. The Government poramboke lands cannot be allotted to the private individuals in the absence of any specific scheme by the Government. Only in case of publishing a Special Scheme for allotting land to the poor landless people by the Government, the District Collector cannot grant patta in respect of the Government poramboke lands. Even in case of a Scheme by the Government, the same is to be implemented uniformly and all the similarly placed persons are to be considered for the grant of patta in accordance with the terms and conditions of the Scheme. In the absence of any such Special Scheme for the grant of patta to the poor landless people, the District Collector or other Revenue Officials are incompetent to grant patta in respect of the Government Lands, which are all to be utilised only for the public welfare and in the interest of the public at large.

9. The District-Administration is duty bound to maintain all the public lands and the public properties intact. The authorities competent are bound to maintain the public lands by evicting the encroachers. Allowing the encroachments in the public lands are to be viewed seriously by the District Collector and there cannot be any leniency or misplaced sympathy in respect of the encroachments in the public lands. It is a growing trend that the Government lands and the public properties are encroached by the private persons and by remaining in the Government land for few years, they are claiming either patta or claiming right over such Government properties.

10. There is a large scale collusion in this regard between the officials, local politicians and the private parties. It is the duty of the District-Administration to find out all such encroachments in the District and evict all such illegal and unlawful occupations and keep the property intact for the public usage and to implement the public schemes in future. In this regard, the District Collector, Kancheepuram District is directed to conduct periodical review meetings and suitable orders are to be passed to the subordinate officials to initiate appropriate actions against all such encroachments within his jurisdiction. In the event of any lapse, negligence

or dereliction of duty on the part of the subordinate officials, the District Collector is bound to initiate appropriate disciplinary actions against all such subordinate officials for not initiating appropriate actions in respect of such encroachments.

11. It is painful to understand that all such local Revenue Officials are very much aware of all such encroachers within their jurisdiction. In spite of their knowledge, they are allowing to continue all such encroachers only on extraneous considerations. Thus, the District Collector is bound to conduct an enquiry into the conduct of these officials and initiate all suitable actions to ensure that the public lands and the public properties are protected for the welfare and interest of the public at large. The periodical meetings in this regard must be conducted with complete particulars and the subordinate officials must be fixed for their inactions. Only in the event of fixing those subordinate officials, suitable actions are possible in this regard.

12. This Court is of an opinion that the writ petitioners claim that they have purchased the land. If at all, they have purchased the land from an unauthorised person, who has no valid title over the property, it is for them to work out their remedies against such vendors in the manner known to law. However, when the matter was enquired into by the District Collector that the land belongs to the Government and classified as "poramboke land", then the writ petitioners cannot seek any patta or otherwise from the Revenue Officials.

13. In this view of the matter, it is left open to the writ petitioners to redress their grievances against their vendors, if at all, they choose to do so. However in respect of the land in question, the writ petitioners have no locus standi to claim patta under the provisions of the Patta Pass Book Act, 1983.

14. This being the principles to be followed, this Court is of an opinion that the writ petitioners have not established any legal right, so as to grant the relief, as such, sought for in the present writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

Svn

To

1.The Collector,
Kancheepuram Collectorate,
Kancheepuram District.

2.The District Revenue Officer,
Kancheepuram District.

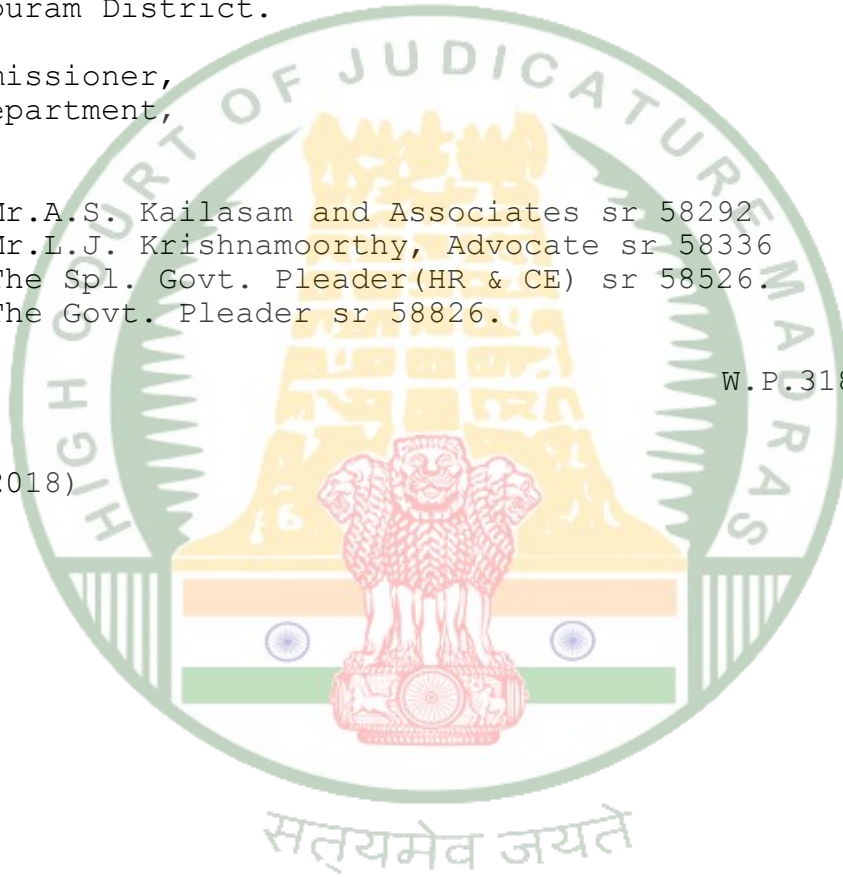
3.The Tahsildar,
Thirukkazhukundram,
Kancheepuram District.

4.The Commissioner,
HR&CE Department,
Chennai.

+1 CC to Mr.A.S. Kailasam and Associates sr 58292
+1 CC to Mr.L.J. Krishnamoorthy, Advocate sr 58336
+1 CC to The Spl. Govt. Pleader(HR & CE) sr 58526.
+1 CC to The Govt. Pleader sr 58826.

W.P.3186 of 2013

SP(05/09/2018)



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