

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.15213 of 2018

and

W.M.P.Nos.18046 and 18047 of 2018

1.K.Murugan
2.K.Ramakrishnan
3.G.Chinna Puliappa Petitioners
Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department, Chennai-9.
2.Commissioner of Land & Administration,
Ezhilagam, Chennai-5.
3.The District Collector,
Krishnagiri District,
Krishnagiri.
4.The Tahsildar,
Taluk Officer, Hosur,
Krishnagiri District. Respondents

PRAYER Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to grant patta in their name for the lands in their possession and enjoyment comprised in survey numbers 430 to 434/1 & 434/3 in Hosur Village, Hosur Taluk, Krishnagiri District.

For Petitioners : Mr.P.Thangarasu

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to grant patta in their name for the lands in their possession and enjoyment comprised in survey numbers 430 to 434/1 & 434/3 in Hosur Village, Hosur Taluk, Krishnagiri District.

2. The petitioners claim that he is in possession and enjoyment of the property comprised in Survey Nos.430 to 434 /1 and 434/3 in Hosur Village, Hosur Taluk, Krishnagiri District. Further, the petitioners state that the said lands were uneven and filled with rocks and bushes and unfit for cultivation. The petitioners and their forefathers had taken steps and removed the rocks and bushes and made fit for cultivation after refining the above lands. At the outset, the petitioners claim that their family members are in possession and enjoyment of the said poramboke land for the past many years and cultivating the said land by investing. Then, the Government should grant patta.

3. Patta Passbook can be issued only under the provisions of the Tamil Nadu Patta Passbook Act, 1983. Section 2 Subclause (6) defines "owner" means any person holding land in severally or jointly or in common under a ryotwari settlement or in any way subject to the payment of revenue direct to the Government and includes a full owner or limited owner but does not include a mortgagee, lessee or a tenant. Even under the definition, the owner of the property alone is to be construed as the owner for the purpose of grant of patta under the provisions of the Patta Passbook Act. The provisions define mortgagee, lessee or tenant cannot be the owner for the purpose of submitting the application seeking Patta Passbook. Section 3 deals with issue of Patta Passbook. Section 3 (1) stipulates that the Tahsildar shall issue a patta pass book to every owner in respect of land owned by him on an application made by him in this behalf. Any application received under this section shall be acknowledged by the Tahsildar or any other officer authorised by him in this behalf. Thus, it is made clear that the owner alone is competent to submit application seeking Patta Passbook under the Act. It is to be established that the person is the owner of the property. Then alone, an application under the provisions of the Act can be entertained. In the event of any dispute in respect of the land, the revenue official namely, the Tahsildar cannot entertain any application in respect of grant of Patta Passbok. Further, the Tahsildar or the Revenue Officials are incompetent to adjudicate the title, ownership, or possession in respect of the immovable properties. In the event of any such dispute between the parties, they must be directed to approach the competent civil court of law. Contrarily, the revenue officials cannot adjudicate the title and ownership in respect of the properties in question for the purpose of grant of Patta Passbook.

4. This being the legal provisions to be followed, a person who is in mere occupation or possession and enjoyment cannot submit an application seeking patta. Only in the event of constituting a policy by the State for the purpose of assignment

or allotment of a land, the persons concerned are at liberty to submit an application before the competent authority. Otherwise, a person who is in possession and enjoyment of the Government property or poramboke land cannot submit an application seeking Patta Passbook under the provisions of the Act and the authorities competent are not empowered to entertain any such application submitted by the persons who are in illegal possession of the properties belong to the Government or in respect of the poramboke lands.

5. This being the legal principles to be followed, the relief as such sought for to grant patta in respect of the poramboke land can never be granted either by the competent officials and this Court cannot entertain such writ petition seeking a direction to grant patta in respect of the property in possession and enjoyment of the writ petitioner. If the writ petitioner is in illegal possession and enjoyment of the property, it is the duty of the competent officials to initiate appropriate action under the provisions of the Land Encroachment Act, 1905 and evict the persons by following the procedures contemplated under the Act.

6. In this view of the matter, no further adjudication needs to be undertaken in respect of the grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Revenue Department, Chennai-9.
2. Commissioner of Land & Administration,
Ezhilagam, Chennai-5.
3. The District Collector,
Krishnagiri District,
Krishnagiri.

4.The Tahsildar,
Taluk Officer, Hosur,
Krishnagiri District.

+1cc to Government Pleader SR.No.40364

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GN(09/07/2018)



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