

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.08.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23002 of 2013
and M.P.No.1 of 2013

P.Shanmugam

... Petitioner

Versus

1.The District Collector,
Office of the District Collector,
Thiruvannamalai District,
Thirunamallai.

2.The Thasildar,
Officer of the Tahsildar,
Cheyyar Taluk,
Thiruvannamalai District.

3. Mrs.Santhanam,

4. Mrs.Selvi ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus or any other or order or direction in the nature of writ directing the respondents No.1 and 2 to issue patta to the petitioner to the lands falling under the survey No.54, measuring around 0.38 cents in Velleripattu Village Panchayat for the purposes chattel shed known as "Aathupatti" (Cattle Shed) on the basis of the representation dated 20.08.2007 made the respondent No.1 and legal notice dated 02.07.2013.

For petitioner : Mr.S.Senthilnathan

For R1 & R2 : Ms.A.Srijayanthi
Special Government Pleader

For R3 & R4 : No Appearance

O R D E R

The relief sought for in this writ petition is for issuance of writ of mandamus directing the respondents 1 & 2 to issue

patta to the petitioner to the lands falling under the survey No.54, measuring around 0.38 cents in Velleripattu Village Panchayat for the purpose of cattle shed known as "Aathupatti" (cattle shed) on the basis of the representation dated 20.08.2007.

2. The learned counsel appearing for the petitioner submitted that the petitioner is in possession and enjoyment of the said property for the past 40 years and the petitioner is using the said land as a cattle shed and paying necessary tax for the said portion of land under his occupation. However, the petitioner himself admits that the land belongs to the Government and no assignment or allotment have been granted in his favour. The writ petition has been filed only on the ground that the petitioner is in continuous possession of the Government land for the past 40 years.

3. The learned Special Government Pleader appearing for the respondents 1 & 2 submitted that mere possession of land does not confer any legal right or assignment.

4. Admittedly, the land in question belongs to the Government and has been classified as Government land. This being the factum of the case the writ petitioner cannot claim to grant patta in his favour unless valid assignment or allotment has been made in accordance with provisions of law.

5. This Court is of the opinion that all the Government lands which are said to be public lands are to be utilised for the public purpose and in the interest of the public. The Government should prevent persons from encroaching Government properties. Assignment or allotment of land can be made by the Government only by formulating a welfare scheme for the benefit of the poor landless people. Even in case of grant of free patta to landless poor people, the same is to be granted only if a scheme is formulated by the Government. Even in case of a Scheme, the same is to be implemented uniformly and without causing any discrimination amongst the similarly placed persons. A Scheme is to be implemented strictly in accordance with the terms and conditions stipulated in the Government Orders and by providing equal opportunity to all the similarly placed landless poor people. However, in the absence of any scheme, the persons, who are all encroaching the Government lands, are liable to be evicted by following the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905. Admittedly, the writ petitioner in the present writ petition has not filed any valid allotment or assignment in respect of the Government land. Mere possession of land will not construe or confer any legal right to claim patta or assignment. Thus the representation submitted by the petitioner cannot be

directed to be considered, even to issue such direction to consider the representation, this Court is of the opinion that the petitioner should establish his legal right for grant of patta but the same has not been established. Accordingly the writ petition is dismissed as devoid of merits. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dpq

To

1.The District Collector,
Office of the District Collector,
Thiruvannamalai District,
Thirunamallai.

2.The Thasildar,
Officer of the Tahsildar,
Cheyyar Taluk,
Thiruvannamalai District.

+1cc to Government Pleader SR.NO.60595

RJ(CO)

sm:25.10.2018

W.P.No.23002 of 2013
and M.P.No.1 of 2013

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