

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.19533 of 2018

And

W.M.P.No.22977 of 2018

T.Rajesh

.. Petitioner

Vs.

1.The District Revenue Officer,
Thiruvannamalai,
Thiruvannamalai District.

2.The Special Tahsildar,
(Town Settlement),
O/o.Thiruvannamalai Taluk Office,
Anna Salai,
Thiruvannamalai.

3.N.Shanmugam

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the second respondent in proceedings A/157/18 dated 26.7.2018 and quash the same as illegal, without jurisdiction, against the circular of Commissioner of Land Administration in Ref.No.K3/27160/2008 dated 13.3.2018 and not in accordance with law.

For Petitioner : Mr.R.Shivakumar for
M/s.K.M.Vijayan Associates.

For Respondents-1&2 : Mrs.A.Sri Jayanthi,
Special Government Pleader.

For Respondent-3 : Mr.P.Wilson,
Senior Counsel for Mr.Richardson.

O R D E R

The enquiry notice, issued by the second respondent-Special Tahsildar (Town Settlement), Thiruvannamalai, in proceedings dated 26.7.2018, is under challenge in this writ petition.

2. The learned counsel, appearing on behalf of the writ petitioner, states that the writ petitioner was allotted with a land, measuring 2000 sq. ft., in T.S.No.953/1, Thiruvannamalai Town, by the second respondent, in proceedings dated 27.2.2009. Even before the allotment, the writ petitioner and his father were in possession of the property described in the present writ petition. The writ petitioner submitted an application for issuance of patta and after due enquiry, the said land was allotted in favour of the writ petitioner by the second respondent.

3. The grievance of the writ petitioner is that the third respondent along with few others in that locality attempted to encroach the said land, which is in occupation of the writ petitioner by using their political influence and by using their henchmen. Subsequently, the writ petitioner filed a Civil Suit also in O.S.No.86 of 2018, which is now pending on the file of the learned Additional Munsif Court at Thiruvannamalai.

4. The third respondent by using his political power, approached the first respondent with the recommendation of a local politician and a complaint was forwarded to the second respondent for initiating action. Based on that, the impugned enquiry notice has been issued to the writ petitioner, calling upon him to participate in the enquiry proceedings.

5. The learned counsel for the writ petitioner states that during the pendency of the writ petition, an enquiry was conducted and the writ petitioner also had participated in the enquiry proceedings.

6. The learned Special Government Pleader, appearing on behalf of the respondents 1 and 2, opposed the said contentions of the learned counsel for the writ petitioner, by stating that the land in question is classified as "Government Poramboke Land". This apart, the order of assignment, now submitted by the writ petitioner, is fraudulently obtained.

7. The learned counsel for the writ petitioner repudiates the contentions of the learned Special Government Pleader for the respondents 1 and 2, by stating that the assignment was granted by the competent authorities. However, the learned Special Government Pleader is of an opinion that all these things are to be verified with the original records and the authorities competent have to conduct a detailed enquiry in respect of the genuinity of the documents or otherwise of the documents, produced by the writ petitioner, during the course of the enquiry.

8. The learned Senior Counsel, appearing on behalf of the third respondent, states that the assignment order itself had been obtained fraudulently and therefore, the same is liable to be cancelled by the authorities competent. The third respondent claims that he is in possession of the property and accordingly, submitted a complaint before the second respondent to initiate action against the writ petitioner. Thus, there is no infirmity in respect of the actions initiated by the second respondent against the writ petitioner.

9. This Court is of an opinion that the genuinity of the assignment granted in favour of the writ petitioner in proceedings dated 27.2.2009 is to be verified by the second respondent or by the competent authorities in this regard. So also the possession of the third respondent, if the same is in the Government Poramboke Land, that also to be ascertained by the competent authorities. In this regard, if there is an encroachment of Government lands or public properties, then suitable actions are to be initiated against all such encroachers by invoking the provisions contemplated under the Encroachments Act.

10. This Court is of an opinion that when the writ petitioner claims a portion of the property, based on the assignment order granted by the second respondent, the third respondent also claims that the entire property is in his possession and enjoyment, the learned Special Government Pleader for respondents 1 and 2, states that the property, which is in possession of the third respondent, is classified as "Government Poramboke Land". If that is the case, an enquiry in detail is to be conducted and in the event of encroachment of Government or public land, all such encroachers are liable to be evicted by following the procedures contemplated under the Encroachments Act.

11. The District Collector, Thiruvannamalai District, is directed to depute an official to verify the revenue records in this regard and find out what all are the lands belong to the Government and classified as "Government Poramboke Land" or otherwise. If the lands in question are classified as "Government Poramboke Lands" or the "Public Lands", then appropriate actions are to be initiated under the provisions of the Encroachments Act, in order to evict all the encroachers and utilise the land for the welfare of the public and in the interest of public administration.

12. This Court is of an opinion that from and out of greediness and on account of exorbitant hike in property value, some persons are attempting to encroach the Government lands and the Government Officials in this regard must be vigil and all

such encroachments are to be dealt with an iron-hand. The competent officials are bound to oversee and protect the Government properties and the same must be utilised for the welfare of the public at large and such government lands can never be allowed to be enjoyed by a third person by way of encroachment.

13. In this regard, the District Collector, Thiruvannamalai District, is directed to conduct periodical review meetings and issue suitable orders to the subordinate officials concerned, to identify all such encroachments and unlawful occupations in the entire District and initiate appropriate actions against all such encroachers, to ensure that the encroachments of public lands are protected in accordance with law and utilised for the welfare of the public at large. In the event of any lapses, negligence or dereliction of duty on the part of the public servants, then the District Collector, Thiruvannamalai District, is bound to initiate appropriate prosecutions and disciplinary proceedings against all such subordinate officials, who have failed to initiate appropriate actions in respect of all such encroachers.

14. This being the principle to be followed, this Court is of an opinion that the call letter sent by the second respondent to proceed with the enquiry is in accord with law. The second respondent has to conduct an enquiry, by verifying the documents produced by all the parties concerned and by affording reasonable opportunity both to the writ petitioner as well as to the third respondent and to any other parties concerned and thereafter, take decision and pass orders on merits and in accordance with law.

15. Further, in respect of the call notice, this Court is of an opinion that no writ proceedings can be entertained and it is left open to the writ petitioner to submit his explanations/documents before the second respondent, for adjudication.

16. The Registry is directed to communicate a copy of this order to the District Collector, Thiruvannamalai District.

17. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

Svn

To

1.The District Revenue Officer,
Thiruvannamalai,
Thiruvannamalai District.

2.The Special Tahsildar,
(Town Settlement),
O/o.Thiruvannamalai Taluk Office,
Anna Salai,
Thiruvannamalai.

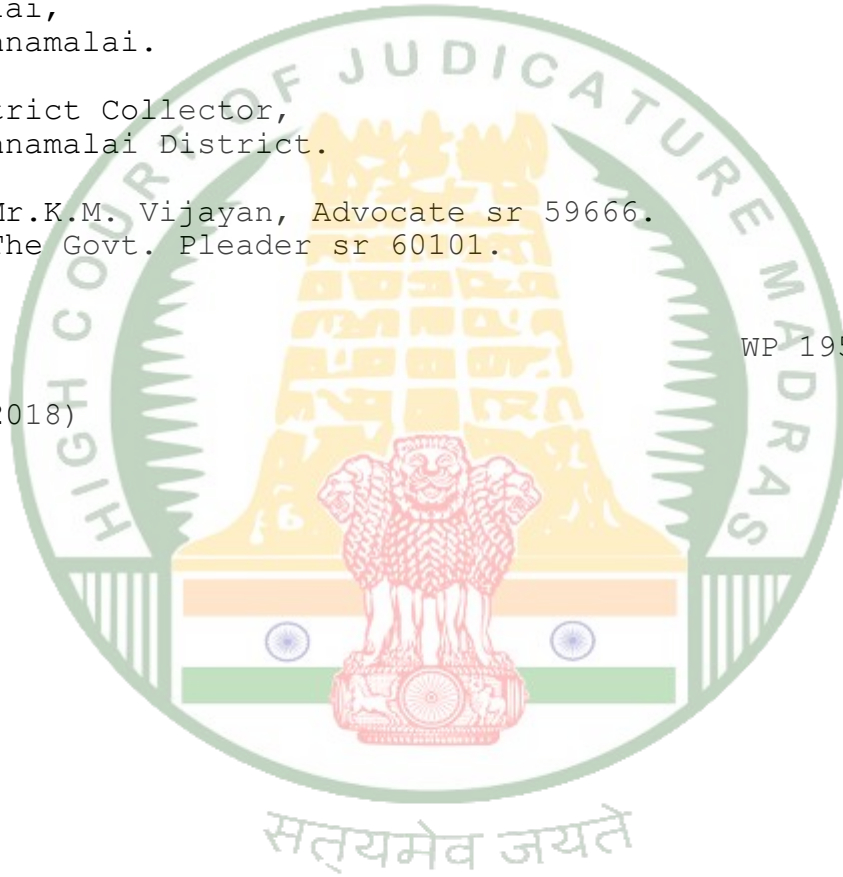
3.The District Collector,
Thiruvannamalai District.

+1 CC to Mr.K.M. Vijayan, Advocate sr 59666.

+1 CC to The Govt. Pleader sr 60101.

WP 19533 of 2018

SP(11/09/2018)



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