

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.27661 of 2013
& M.P.No.1 of 2013

Tamilnadu Vedu Illathoar Nala Peravai
Rep. by its President Mr.A.Ethiraj ...Petitioner

vs.

1. The Secretary,
Housing and Urban Land Development,
Government of Tamil Nadu, Chennai - 600 009.
2. The Secretary,
Revenue Department,
Government of Tamil Nadu,
Chennai - 600 009.
3. The District Collector,
Office of Collectorate,
Thiruvallur District.
4. The Special Tahsildar,
(Town Survey Final Audit Work),
Ambattur, Chennai - 600 053.
5. Tamil Nadu Housing Board,
493, Anna Salai, Nandanam, Chennai - 600 053.
6. The Executive Engineer,
Tamil Nadu Housing Board,
Thirumangalam Office,
Thirumangalam, Chennai. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 3rd respondent to consider the representation dated 19.07.2013 for issuance of free house site pattas, to all the residents affiliated with the petitioner association in view of G.O.Ms.No.854, Revenue Department, dated 30.12.2006, in respect of the lands comprised in Survey No.253/7, 8 and 9 to an extent of 3 Acre and 46 cent situated at Padi, Ambattur Taluk, Thiruvallur.

For Petitioner : M/s.S.Arivazhagan
For Respondents: Mr.V.Shanmuga Sundar,
Spl.G.P. (for RR1 to 4)
Mr.V.Anandamurthy (for RR5 & 6)

ORDER

The prayer in the Writ Petition is for issuance of Writ of Mandamus to direct the 3rd respondent to consider the representation of the petitioner dated 19.07.2013, for issuance of free house site pattas, to the members of the petitioner's association, in view of G.O.Ms.No.854, Revenue Department, dated 30.12.2006.

2. Heard the learned counsel for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 4 and the learned Standing Counsel for the respondents 5 & 6.

3. According to the petitioner, the land in Survey Nos.253/7, 8 and 9 to an extent of 3.46 Acres at Padi, Ambattur Taluk, Tiruvallur District, is classified as Natham Poramboke in the Revenue Records. More than, 300 houses have been constructed and about 2000 persons have been residing in the area since 1969. While so, the 6th respondent demolished the houses without any notice in the year 1998. Aggrieved over the action of the 6th respondent, the petitioner instituted suits in O.S.No.38/1998 and O.S.No.16 of 2000.

4. The further case of the petitioner is that the members of the petitioner-Association are entitled for free house site patta, as per G.O.Ms.No.854, Revenue Department, dated 30.12.2006.

5. In the counter affidavit filed by the respondents 3 and 6, it has been stated that the entire land in Survey Nos.253 was classified as Eri Poramboke, which spread to an extent of 99.80 acres. Due to the extension of Madras City, the 'Ayacut' of the land of the Eri becomes house sites. Therefore, the Government decided to handover the portion of the property in favour of the Tamil Nadu Housing Board, by passing G.O.Ms.No.2318/PWD, dated 05.12.1979.

6. It is further stated that the Writ Petitions filed by similar Associations in W.P.Nos.21602 of 2010, 2639 of 2011, 20175 of 2004, 25702 of 2005 and 18802 of 2007 have been dismissed, by observing that the Writ Petitions filed by the Associations cannot be maintained. The order passed in the batch of Writ Petitions was extracted in the counter affidavit filed by the 6th respondent, in the paragraph 6, which reads as follows:

"Therefore, when this Court has already passed an order taking a stand for grant of patta, only an individual alone can come before this Court by showing the continuous possession of the particular land for the purpose of assignment of the said land, the petition

filed by the association or Makkal Sevai Mandram cannot be entertained. As already held by this Court, if the individual residents are living for more than 5 years, they have to establish their continuous possession of the land as prescribed by the G.O.Ms.No.543. Only on that basis they can make out their claim. When the individuals are making out their cases, the petition filed by the association cannot be entertained. In view of the same, the present writ petitions filed by the association on behalf of the members of the Mandram or Association cannot be considered."

7. Taking note of the above facts, this Court is of the considered opinion, the present Writ Petition filed by the Association cannot be entertained. In that view, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

pvs
To

- 1.The Secretary, Housing and Urban Land Development, Government of Tamil Nadu, Chennai - 600 009.
- 2.The Secretary, Revenue Department, Government of Tamil Nadu, Chennai - 600 009.
3. The District Collector, Office of Collectorate, Thiruvallur District.
4. The Special Tahsildar, (Town Survey Final Audit Work), Ambattur, Chennai - 600 053.
5. Tamil Nadu Housing Board, 493, Anna Salai, Nandanam, Chennai - 600 053.
6. The Executive Engineer, Tamil Nadu Housing Board, Thirumangalam Office, Thirumangalam, Chennai.

+ 1 cc to M/s. V. Anandhamurthy, Advocate Sr.19587
+ 1 cc to Government Pleader Sr.20511

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RR(CO)
EU(06/04/2018)