

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

W.P.No.7926 of 2016

M.Thangaraj

...Petitioner

Versus

1. The District Collector,
Cuddalore District,
Cuddalore.
 2. The Special Deputy Collector,
Revenue Department,
Land Acquisition Office No.3,
Neyveli - 607 802.
 3. The Neyveli Lignite Corporation Ltd,
Neyveli,
Cuddalore District.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a issuance of a Writ of Certiorarified Mandamus calling for the records of the proceedings of the first respondent made in Na.Ka.L2/288/2015 dated 28.11.2015 and quash the same consequently direct the respondents to provide compensation to the petitioner for his land and house by treating his land as patta land.

For Petitioner : Mr.S.Thirumavalavan

For Respondents 1 & 2 : Mr.Akhil Akbar Ali,
Government Advocate

Respondent 3 : Mr.F.B.Benjamin George

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ORDER

1. The petitioner has come forward with the present petition seeking to quash the proceedings of the first respondent/District Collector dated 28.11.2015 and to issue further consequential directions.

2.1. The facts that are necessary for the disposal of the petition may be briefly stated. The petitioner owns a plot measuring 1,530 Sq.ft in Survey No.80/1 of the Gangaikondan Village, Vriddhachalam Taluk, Cuddalore District, and the same is classified as Natham land in the Village Record. This property originally belonged to a certain Ramamurthy and Govindasamy, who purchased the property on 07.02.1970.

2.2. The petitioner purchased the said plot from Ramamurthy with a thatched-roofed house on 04.02.1993. Thereafter, the Revenue Authorities has issued an Assignment Patta in New Survey No.461/7. While so, property of the petitioner and others were acquired for the benefit of third respondent namely M/s Neyveli Lignite Corporation. So far as the petitioner's plot is concerned, the same was attempted to be treated as a Poramboke land and compensation and other benefits too were proposed to be granted on that premise. Since the Patta has been granted to the petitioner, the petitioner produced the same along with his title deed and also the patta of his predecessor-in-title before the Authorities concerned along with a representation. Thereafter, the petitioner moved this Court in W.P.No.533 of 2014 and this Court Vide its order dated 25.02.2015, directed the respondent to dispose of the said representation within a period of three weeks from the date of receipt of a copy of this order. Even, thereafter, the respondent did not pass an order which led to the petitioner filing a Contempt Petition in Cont.P.No.2460 of 2015 following which, the first respondent has passed the impugned order. This Order is in challenge.

3. It is alleged in the counter affidavit of the second respondent:

a) That the property in Survey No.80/1 of Gangaikondan Village is a Government Natham property and not a Patta land;

b) As regards the assignment in favour of petitioner's predecessors-in-title namely Govindasamy, generally, every such assignment would contain a clause against transfer of property within 10 years from the date of issuance of Patta, and should there be any breach of this condition, the authority is vested with the Revenue Divisional Officer or Sub Collector can cancel the Patta. So far as, the present property is concerned, inasmuch as it is situated in the mining areas of the third respondent, only temporary assignments are granted. The petitioner, even as he contends that his predecessor-in-title were issued assignment patta, and thus have acquired absolute title over the property, yet for inexplicable reasons he ventured

to obtain another assignment Patta in his name from the Tahsildar, Vriddhachalam for the same house site now in New Survey No.461/7 dated 21.09.2009. This assignment is in gross violation of the Rules governing assignment of Government lands.

(c) Since the purchase, the petitioner has erected a solid residential construction after removing the existing thatched house. He is well aware that he has put up a structure in a property classified as Natham Poromboke. In spite of that, the third respondent/beneficiary of the acquisition has offered an alternate site measuring 1020 sq.mtrs i.e., 1308 sq.ft as well as compensation amount of Rs.73,000/- towards value of the building and and additional sum of Rs.24,000/-.

(d) The petitioner has refused to receive the compensation offered, and he wants him to be treated in par that the registered land-owners as per the Revenue Records. It is in these circumstances, the District Collector had passed the impugned proceedings, which is consistent with law.

4. The third respondent/ M/s NLC has filed its counter affidavit and it is in line that the counter affidavit filed by the third respondent.

5. Mr.S.Thirumavalavan, the learned counsel for the petitioner brought to the notice of the Court following facts:

a) The petitioner had purchased a small plot in Survey No.80/1 from certain Ramamurthy and that the said Ramamurthy had been in possession of the plot was not denied by the respondents. Secondly, the said plot was assigned to Ramamurthy, is also not denied or disputed by the respondent as they have not disputed the copy of the assignment-proceedings available in the typed set of papers.

b) After purchasing the property from Ramamurthy, petitioner had applied for an assignment-patta in his name and he was granted an Assignment Patta dated 21.09.2009. In the counter affidavit both the respondents impugn only the second mentioned assignment but not the first assignment.

c) Even if the second assignment goes, still the first assignment granted in name of Ramamurthy, the

predecessor-in-title of the petitioner survives. On its effect, averments in the counter affidavit are not specific since they only state that generally when an assignment is granted in areas where NLC has its mining facilities, it would be only temporary assignments. This is plainly a belief or a perception, whereas what is required is an unimpeachable assertion to that effect and also its proof.

There is no allegation in the counter that the terms of assignment interdicted Ramamurthy to transfer the property assigned.

If so viewed there is no reason why the petitioners should be denied parity in treatment with those who the respondents categorise as registered owners of lands.

6. Responding strongly to the same, Mr. Akhil Akbar Ali, the learned Government Advocate appearing for the respondents 1 & 2 and Mr. F.B. Benjamin George, the learned counsel appearing for the third respondent submitted that the fact that the petitioner's predecessor in title was granted only a temporary assignment would be borne out by the Revenue Records where the land continues to be classified as Government Natham Poramboke and not as the property of Ramamurthy. Secondly, the petitioner is harping essentially on the patta that was issued to him by the Tahsildar on 21.09.2009. But Tahsildar is not the Competent Authority to grant assignments.

7. The moot question in this case is whether the petitioner is only entitled to compensation or such benefits which the third respondent has offered as a package, or anything more, in particular in parity with what is offered to other registered land owners. Here this Court witnesses that there is a conflict as to whether the petitioner or his predecessor in title was a registered owner of the property, whether the assignment given to the petitioner on 21.09.2009 is competent, whether the assignment given to petitioner's vendor is a temporary assignment etc. This requires an investigation on facts for ascertaining the nature of petitioner's title. This exercise is beyond the scope of this proceedings and this Court will not enter a factual investigation.

8. Therefore, this Court disposes this case with a direction to the petitioner to approach such Authorities or forum as are available in law to resolve his dispute as to his title over the property first, and then to approach the Authorities concerned for providing him compensation or other benefits in the manner he now claims.

9. With the aforesaid direction, this Writ Petition is disposed of. No costs. It is also open to the petitioner to receive any compensation or other packages as is now offered by the third respondent dehors his claim for parity in treatment with registered land owners.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrr
To

1. The District Collector,
Cuddalore District,
Cuddalore.
2. The Special Deputy Collector,
Revenue Department,
Land Acquisition Office No.3,
Neyveli - 607 802.
3. The Neyveli Lignite Corporation Ltd,
Neyveli,
Cuddalore District.

+1cc to Mr.F.B.Benjamin George, Advocate Sr.20030
+1cc to Mr.S.Thirumavalavan, Advocate Sr.19898

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srg 13/06/2018