

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.Nos.2218 and 2219 of 2018
and C.M.P.Nos.17429 and 17430 of 2018

W.A.No.2218 of 2018:

- 1.Suparas Chand
- 2.Mrs.Madan Kanvar
- 3.Ashok Kumar
- 4.Dilip Kumar

...

Appellants

-vs-

- 1.The District Collector,
Tiruvallur, Tiruvallur District.
- 2.The District Revenue Officer,
Tiruvallur, Tiruvallur District.
- 3.The Revenue Divisional Officer,
Ambattur, Madhavaram Taluk,
Tiruvallur District.
- 4.The Tahsildar,
Madhavaram,
Tiruvallur District.

...

Respondents

W.A.No.2219 of 2018:

Mrs.Madan Kanvar

...

Appellant

-vs-

- 1.The District Collector,
Tiruvallur, Tiruvallur District.
- 2.The District Revenue Officer,
Tiruvallur, Tiruvallur District.

3.The Revenue Divisional Officer,
Ambattur, Madhavaram Taluk,
Tiruvallur District.

4.The Tahsildar,
Madhavaram,
Tiruvallur District.

... Respondents

Appeals filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.Nos.6068 of 2018 and 31460 of 2017 respectively, dated 27.07.2018.

WP.No.31460 of 2017:

Prayer:Writ of Certiorarified Mandamus calling for the records of the 1st respondent dated 26.6.2015 in Na.Ka.No.22700/2012/ A1 and to quash the order dated 26.6.2015 made therein and consequently to forebear the respondents from interfering with the petitioners peaceful enjoyment of her lands measuring acre 1.66 in survey No.239 and acre 0.74 in survey No.244/1A Puzhal Village.

WP.No.6068 of 2018:

Writ of certiorari calling for the records of the 3rd respondent in Na. Ka. No. 2129/2017/A5 and to quash the order dt 14.2.2018 made therein.

For Appellants :: Mr.A.Thiagarajan, Sr.Counsel
in both W.As. for Mr.S.Ramesh Kumar

For Respondents :: Mr.S.T.S.Murthy,
in both W.As. Addl.Advocate General Assioter by
Mr.P.S.Siva Shonmuga Sundaram R1 to 4

COMMON JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The appellant in W.A.No.2219 of 2018 has filed a writ petition before this Court in W.P.No.31460 of 2017 to set aside the order passed by the first respondent dated 26.06.2015 in Na.Ka.No. 22700/2012/A1 and to forbear the respondents from interfering with the appellant's peaceful enjoyment of her lands measuring acre 1.66 in Survey No.239 and acre 0.74 in Survey No.244/1A, Puzhal Village. The order of Revenue Divisional Officer, Ambattur, rejecting the claim of the appellant in respect of grant of patta in favour of the appellant in proceedings dated 14.02.2018 was challenged by filing a writ petition in W.P.No.6068 of 2018.

2. According to the appellants, they are the owners of the lands in S.Nos.118/1, 119/1, 120/1, 239, 244/1A, 261/1, 261/2 and 270/1, to the extent of 0.27.50, 0.31.50, 0.63.50, 0.67.00, 0.30.00, 0.24.50, 0.28.50, 0.52.50 hectares, respectively, in Puzhal Village, Madhavaram Taluk. According to them, the said lands were the ancestral lands of the erstwhile owners and they possessed and enjoyed the land for generations. These persons were cultivating the said lands. The original owners conveyed the same in favour of the first appellant in W.A.No.2218 of 2018 and accordingly, he is in possession of the said lands. The appellants claim that an agreement of sale has been entered into between the first appellant and the erstwhile owners and on payment of the entire consideration to the erstwhile owners, they are in possession of the said lands. Further, Patta No.375 came to be issued in favour of the first appellant. Subsequently, on 08.10.2010, the first appellant settled the aforesaid lands in favour of his wife and sons namely, the other appellants. Under these circumstances, the Revenue Divisional Officer, Ambattur in his proceedings dated 19.12.2012, has chosen to cancel the Patta issued in their favour, on the ground that the said lands are "Punjai Tharisu" lands and only in the computer generated Patta, the names of the appellants have been entered and the said changes are not reflected in the Village records and the Patta has been erroneously granted in respect of the Government Poramboke lands. After many litigations, the matter culminated in scrutinisation of the application by the Revenue Divisional Officer, Ambattur which has been remanded by the District Revenue Officer, Tiruvallur and passing an order stating that the said lands in S.Nos.118, 119, 120, 239, 244, 261/1, 261/2 and 270 belong to the Government and directing the Tahsildar, Madhavaram to file a criminal case against the first appellant in W.A.No.2218 of 2018.

3. After considering the facts and circumstances, the learned single Judge has passed the impugned order dated 27.07.2018, the relevant portion of which, is extracted hereunder:

"20. Considering the entire facts and circumstances, this Court is of an opinion that they are many inconsistencies and discrepancies between the parties. As contended by the learned Additional Advocate General, the writ petitioners have not produced any acceptable document to prove their title. Even in that case, this Court would not be in a position to go into the complex and factual disputes and the same is to be adjudicated before the competent Civil Court by way of a full fledged Trial. However, the allegations in respect of tampering the Government records either by the private individuals or in collusion with the officials, the same is to be viewed

seriously. In the present writ petition, there is large scale allegation of tampering of revenue records by certain persons. When both the parties to the present lis on hand, pleads that the Government records are tampered with and there are fraudulent entries and manipulations, then the same require an investigation by the Police officials. The nature of the documents, inconsistencies, discrepancies, tampering of records, manipulations, malpractices, corrupt activities, illegalities and irregularities, all these aspects are to be investigated properly by the Central Crime Branch of the Police Department and all the persons, who are involved in such kind of offences are to be prosecuted under the relevant provisions of Penal law. Undoubtedly, there cannot be any leniency or misplaced sympathy in respect of the persons, who have indulged in such offence of tampering of records for the purpose of grabbing the Government lands. Public lands are to be preserved. Public lands are to be utilized only for the welfare of the public and no individual has got any right to enjoy or possess the Government land in an illegal manner.

21. The land value especially, in and around the Chennai City are raising high and under these circumstances, certain ill motivated and greedy persons are indulging in some illegal activities and grabbing the Government land and some patta lands. Such frequent complaints are received and large scale grabbing of such valuable lands are noticed by the public at large. In fact, such land mafia groups are increasing day-by-day and the Government authorities, who all are bound to protect such Government lands, are also committing gross negligence and dereliction of duty in respect of their duty to protect the Government lands. In other words, the Government officials are failing in their duties and colluding with such land mafia groups and indulging in corrupt activities. These all are the frequent informations noticed by the public at large and by all concerned. Such activities of the ill motivated groups are to be dealt with iron heart and iron hand. There cannot be any leniency or misplaced sympathy in respect of such offenders. This Court is not coming to the conclusion that the petitioners are the offenders as of now. However, such factors are to be ascertained only through an investigation by registering a complaint before the competent Police authorities. A thorough investigation is certainly warranted in respect of the facts and circumstances of the present case is concerned. This Court is of an

undoubted opinion that the complex nature of the case now presented before this Court is of such a nature that the fraudulent activities are going on, in respect of the Government lands in question in the present writ petition. Such being the conclusion of this Court, the right course would be to order for an investigation by the Central Crime Branch of the concerned Police authorities.

22. In this view of the matter, this Court is of a clear opinion that the writ petitioners have not made out any case for grant of any such relief sought for in both the writ petitions. Thus, the writ petitioners are not entitled for any relief. Considering the complex nature of facts and the nature of allegations of fraudulent and illegal activities now submitted before this Court, it is appropriate to issue the following directions:

(i) The respondents are directed to lodge a Police complaint before the Central Crime Branch concerned immediately, setting out all the facts and details along with the documents. The Central Crime Branch, in turn shall register the case immediately and commence investigation without any further delay, and proceed in accordance with Law.

(ii) In respect of the encroachments made in the Government lands, the respondents are directed to initiate immediate action against all the encroachers under the provisions of the Tamil Nadu Land Encroachment Act, 1905, by issuing show cause notice and by following the procedures contemplated under the provisions of the said Act and thereafter, evict all such encroachers without any delay and within a period of four weeks from the date of receipt of a copy of this order.

(iii) The District Collector, Tiruvallur, is directed to conduct a review meetings with all the revenue officials concerned and identify all the encroachments in his jurisdiction and issue suitable orders to evict all such encroachers in the interest of public, and by following the procedures contemplated under the Tamil Nadu Land Encroachment Act, 1905. Such review meetings and orders to be passed by the District Collector, Tiruvallur, within a period of four weeks from the date of receipt of a copy of this order.

(iv) The District Collector, Tiruvallur, is directed to oversee the implementation of the provisions of the Tamil Nadu Land Encroachment Act, 1905 by all the officials concerned and if there is any negligence, collusion or dereliction on duty, then the District Collector shall initiate appropriate disciplinary proceedings against all the officials concerned under the provisions of the Tamil Nadu Civil Services(Discipline and Appeal)Rules, and criminal prosecutions, if warrants under the facts and circumstances.

23. With these directions, both the writ petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed."

4. Challenging the order passed in the writ petitions, the present appeals have been filed.

5. Heard the learned senior counsel appearing for the appellants and the learned Additional Advocate General appearing for the respondents and perused the materials available on record.

6. According to the submission made by the learned senior counsel for the appellants, the appellants are in possession of the property and they have purchased the same from their vendors in accordance with law. Patta was also granted to the first appellant in W.A.No.2218 of 2018, who in turn, settled the property in favour of his wife and sons. According to them, they are in possession from the year 1989 and the properties got transferred in their names. According to the learned Additional Advocate General appearing for the respondents, the lands belong to the Government and many fraudulent activities have been done by the appellants and it is a clear case of land grabbing. It is also submitted that criminal cases have been filed against the appellants. Further, in the said space, Tahsildar Office has been constructed and some other Government Buildings have also been constructed; the area covers about 8 acres which is worth about Rs.20 crores at present. Thus, he submits that it is a clear case of land grabbing and if the appellants have any grievance, they have to approach the competent Civil Court. Finally, it is submitted that the order passed by the learned single Judge is a well considered one and the same does not require any interference.

7.The revenue records show that the land belongs to the Government. The appellants have not produced any acceptable document to prove their title. It also appears that criminal cases have been filed against the appellants. Further, Tahsildar Office and some other Government Buildings have also been constructed in the area. Hence, we concur with the view taken by the learned single Judge that a thorough investigation has to be carried out by registering a complaint before the competent police authorities.

8.It is the submission of the learned Senior Counsel for the appellants that though the learned Single Judge directed the parties to establish their right before the Competent Civil Court, but in view of the observations made against them, the Subordinate Courts may not decide the issue on merits.

9.Taking note of the facts of this case, we find no reason to interfere with the impugned order passed by the learned Single Judge. Accordingly, these writ appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. It is needless to say that if the appellants approach the Competent Civil Court, the issue shall be decided purely on merits and in accordance with law.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM

To

1.The District Collector,
Tiruvallur, Tiruvallur District.

2.The District Revenue Officer,
Tiruvallur, Tiruvallur District.

3.The Revenue Divisional Officer,
Ambattur, Madhavaram Taluk,
Tiruvallur District.

4.The Tahsildar,
Madhavaram,
Tiruvallur District.

+2cc to Mr.S.Ramesh Kumar, Advocate, S.R.No.71221

+1cc to the Government Pleader, S.R.No.71495

W.A.Nos.2218 and 2219
of 2018

and C.M.P.Nos.17429 and 17430
of 2018

GMR (CO)

GSP (01/11/2018)