



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
AND

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P (MD) No.18630 of 2018

1.Arockia Mary
2.Arulsamy
3.Vedamuthu

... Petitioners

vs.

1. The District Collector,
Sivagangai District, Sivagangai

2. The Revenue Divisional Officer,
Sivagangai, Sivagangai District.

3. The Tahsildar,
Devakottai Taluk
Sivagangai District.

4. The Zonal Deputy Tahsildar,
Devakottai
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to forbear the respondents from evicting the petitioners from the patta land in New Survey No.777/8, 781/2, 779/1 at Anumanthakudi Village, Devakottai PO, Sivagangai District without following due process of law by considering their common representation dated 23.07.2018.

For Petitioners : Mr.D.Selvanayagam

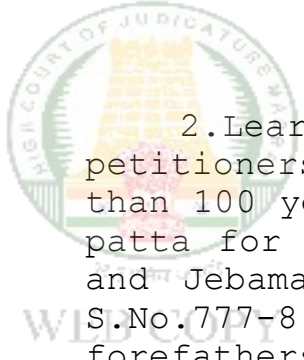
For Respondents : Mr.C.Ramar

Additional Government Pleader

O R D E R

(Order of the Court was made by T.RAJA, J.)

This Writ Petition has been filed seeking a writ of Mandamus to forbear the respondents from evicting the petitioners from the patta land in New Survey No.777/8, 781/2, 779/1 at Anumanthakudi Village, Devakottai PO, Sivagangai District without following due process of law by considering their common representation dated 23.07.2018.



2. Learned counsel for the petitioners would submit that the petitioners' family are enjoying the land in question for more than 100 years from his forefathers and they have been issued with patta for 12 cents of land. Two more persons, namely, Sebastian and Jebamalai were also issued with patta insofar the land in S.No.777-8. The patta issued in the name of the petitioners' forefathers Mr.Vedamuthu in Anumanthakudi village, as patta No.691 to an extent of 0.01.20 cents in S.No.781/2. The Tahsildar of Devakottai Taluk, the third respondent herein has made certain subdivisions and he has also prepared a field map showing the subdivisions referring S.Nos.773, 776, 771, 778 and 780, which has not been acceptable by the petitioners. To set right the error and mistake committed by the revenue authorities while doing subdivision of certain lands, a representation has been given to the District Collector on 23.07.2018 indicating that the orders issued against one Rani, W/o.Jebaraj dated 29.06.2018 is wholly untenable and unacceptable.

3. In the meanwhile, eviction notice under Section 7 of Prevention of Tamil Nadu Land Encroachment Act, 1905 has been issued to one Rani and the fourth respondent, without due process of law, likely to evict the petitioners from their property. Therefore, the petitioners are before this Court with this writ petition.

4. The Additional Government Pleader would submit that the petitioners have encroached into the common pathway/public street. In support of his submission, producing the Village Record/Revenue Record, which shows that S.No.777/9 has been shown as street, he further stated that the respondents are taking steps to remove the said encroachment made and they will proceed further.

5. This Court is not inclined to entertain this writ petition for the following reasons:

(i) Initially, when the petitioners have been issued with patta, as and when the revenue authorities approach them, it is for the petitioners to show the copy of the patta stating they are in possession and enjoyment of the land. However, when that stage has not yet come to the petitioners, the petitioners cannot come to this Court;

(ii) Secondly, when the petitioners averred in Paragraph No.6 of the affidavit filed in support of the writ petition that the Zonal Deputy Tahsildar has approached the petitioners, curiously, nowhere, on what date, the fourth respondent has visited the petitioner's property has been mentioned and the statement made in the affidavit is unbelievable ; and

(iii) Thirdly, had there been any visit by the fourth respondent to the petitioners' property, on the same day or the next day, they could have made a representation enclosing the copy



of the revenue records including patta and other documents, which has not been done and the affidavit is silent about the fact that they have approached the revenue authorities.

6. In such view of the matter and for all the aforesaid reasons, the writ petition fails and the same is accordingly, dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The District Collector,
Sivagangai District,
Sivagangai
2. The Revenue Divisional Officer,
Sivagangai
Sivagangai District.
3. The Tahsildar,
Devakottai Taluk
Sivagangai District.
4. The Zonal Deputy Tahsildar,
Devakottai
Sivagangai District.

+1cc to Mr.D.Selvanayagam, Advocate Sr.No.80206
+1cc to Spl.Government Pleader Sr.No.80616

RR

VB/RP/SAR2/28.09.2018/3P/7C

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