

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.11.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.13915 of 2011
and
M.P.Nos.2 and 3 of 2011

S.Sivaraman

..Petitioner

vs

1. The District Collector
Tiruvallur District,
At Tiruvallur.
2. The District Forest Officer
Tiruvallur District
Tiruvallur.
3. The Tahsildar
Tiruttani Taluk
Tiruttani, Tiruvallur District.
4. The Forest Officer
Tiruttani Forest Range
Tiruttani, Tiruvallur District.
5. The Village Administrative Officer
Athipattu Village
Tiruttani Taluk
Tiruvallur District.

..Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relevant to the order in Na.Ka.No.3953/2011/V dated 10.05.2011 passed by the 2nd respondent and Na.Ka.No.20/2010-2011 dated 24.05.2011 passed by the 4th respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and natural justice.

For Petitioner : Mr.G.Thangavel

For Respondents : Mr.M.Elumalai
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, calling for the records relevant to the order in Na.Ka.No.3953/2011/V dated 10.05.2011 passed by the 2nd respondent and Na.Ka.No.20/2010-2011 dated 24.05.2011 passed by the 4th respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and natural justice.

2. The petitioner has purchased a property situated in Survey No.246/2A1 totally to an extent of 32.73 acres of Athipattu Village, Tiruttani Taluk, Tiruvallur District from his vendor. Since from the date of purchase of the property, as on today, he was in absolute possession and enjoyment of the same. Subsequent to the purchase of the above said land, patta was issued in Patta No.432 in the name of the petitioner by the Assistant Tahsildar, Tiruttani and all the revenue records viz., Patta, Chitta and Adangal clearly shows that the petitioner is the absolute owner of the property. The Forest Department have no right over the said property. Whilesso, on 03.06.1996, out of 32.73 acres, the petitioner sold 7.84 acres of land to one Mr.Gul Mohamed and the same was registered on the file of the Sub Registrar, Thiruvellankadu in document No.978 of 1996. On 05.05.2011, one Anandan, who is the registered power of attorney of the petitioner sent a representation to the 2nd respondent / District Forest Officer to demark the patta land. On receipt of the said letter, the 2nd respondent through his proceedings in Na.Ka.No.3953/2011/V dated 10.05.2011 stated that already the land situated in Survey No.246/2A1 totally to an extent of 49.83 acres of land which was declared as Reserve Land through the notification by the Government in Gazette Publication on 01.05.1969. Subsequently, the 2nd respondent through his proceedings dated 10.05.2011 directed the 1st respondent to cancel the patta issued to those persons who have purchased the said property. Pursuant to the said order, the 4th respondent through his proceedings in Na.Ka.No.20/2010 dated 24.05.2011 declared the land situated in Survey No.246/2A1 totally to an extent of 49.83 acres as a Reserved Land which absolutely belongs to the Forest Department. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that the petitioner had purchased a property from his vendor for a valuable sale consideration and continuously, he was in absolute possession and enjoyment of the property by way of revenue documents viz., Patta, Chitta and Adangal. Hence, the petitioner is having prescribed title over the property. Therefore, the order of the 4th respondent is legally unsustainable.

4. The learned Government Advocate filed a counter affidavit on behalf of the official respondent.

5. A perusal of the counter affidavit, it reveals that the Survey No.246/2 of Athipattu Village over an area of 49.83 acres in Tiruttani Taluk of Tiruvallur District was declared as "Reserved Land" as on 1969 and as per Section 26 of the Tamil Nadu Forest Act gives powers to Government to make rules in connection with protection of land at the disposal of Government. Under rule 5-A General Rules for the management of Reserved and Unreserved land i.e rules in Section 26 of the Tamil Nadu Forest Act 1882. Even as per Rule 5-A, the Collector of the district, with previous approval of the Board of Revenue, may declare in respect of any village by a notification in the District Gazette. However, in respect of the reserved land, the Forester is not a competent authority to issue No Objection Certificate for the forest land under the control of District Officer. The disputed land in S.No.246/2 over an area of 49.83 acres was declared as "Reserve land" in Madras - Chengalpattu District Gazette. Hence, the Forest Department is the absolute owner of the above said land since 1969. However, without challenging the Gazette notification issued by the Government in Gazette Publication on 01.05.1969, the petitioner has filed the present writ petition challenging the orders passed by the 2nd and 4th respondents. In respect of the Forest Reserve Land, the Revenue officials have no power to deal with the forest land and they are not entitled to issue patta. Accordingly, the writ petition is misconceived and the same is liable to be dismissed.

6. In the result, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Tiruvallur District, At Tiruvallur.
2. The District Forest Officer
Tiruvallur District
Tiruvallur.

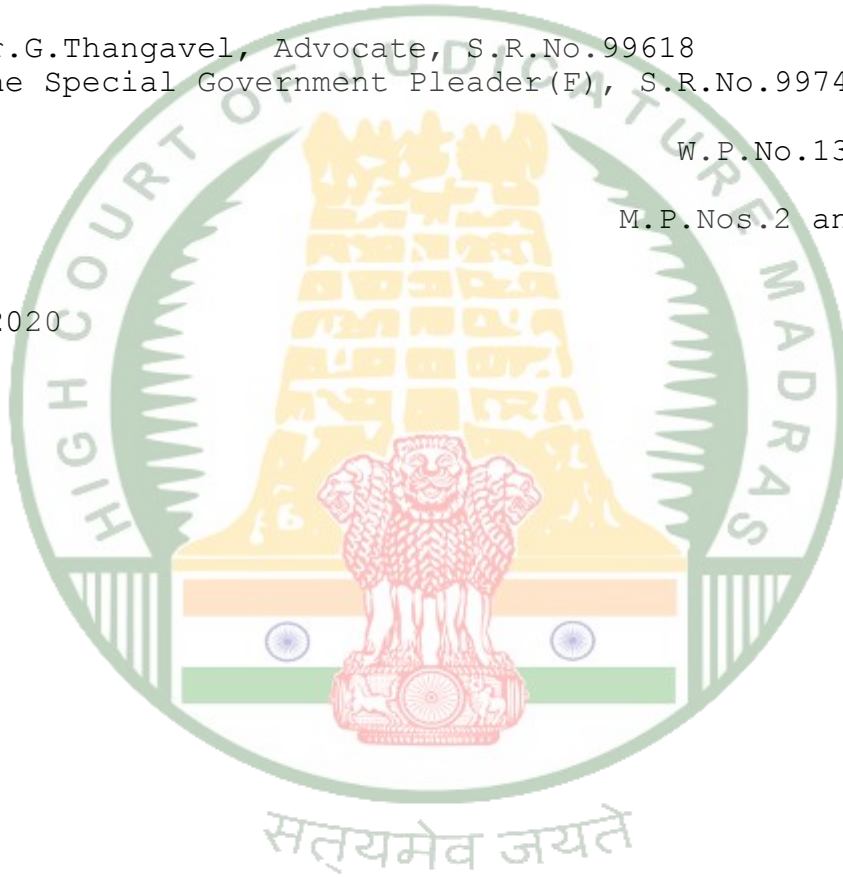
3. The Tahsildar
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5. The Village Administrative Officer
Athipattu Village
Tiruttani Taluk
Tiruvallur District.

+1cc to Mr.G.Thangavel, Advocate, S.R.No.99618

+1cc to the Special Government Pleader(F), S.R.No.99743

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BR(CO)
CS/22/01/2020



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