

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.01.2019

Pronounced on : 07.06.2019

CORAM :

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.19438 to 19440 of 2013

- 1) K.Marichamy ... Petitioner in WP.No.19438/13
- 2) M.Ayyadurai ... Petitioner in WP.No.19439/13
- 3) M.Nagaraj ... Petitioner in WP.No.19440/13

vs.

1. The State of Tamil Nadu,
Rep. by Principal Secretary-Cum-
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
2. Joint Commissioner of Land Reforms,
Gandhiji Road,
Jawans Bhavan, 2nd floor, Erode - 1.
3. Tahsildar,
Coimbatore South Taluk, Coimbatore.
4. Zonal Deputy Tahsildar,
Thondamuthur, Coimbatore South Taluk,
Coimbatore.
5. Revenue Inspector,
Alandurai, Coimbatore South Taluk,
Coimbatore.
6. Village Administrative Officer,
No.16, Mathuvarayapuram Village,
Coimbatore South Taluk, Coimbatore.
7. Perur Santhalinga Adigalar,
Mathuvarayapuram Village, Coimbatore.

(Respondents in all the Writ petitions)

Prayer in WP.No.19438/13: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, calling for the records of the 3rd

respondent in Na.Ka.3417/2011/A3 dated 28.03.2013 and quash the same and directing the 3rd respondent to issue patta for the 0.50 cents in Survey No.646/IB of Matuvarayapuram village, Coimbatore South Taluk, Coimbatore, already assigned to the petitioner.

Prayer in WP.No.19439/13: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Na.Ka.3416/2011/A3 dated 28.03.2013 and quash the same and directing the 3rd respondent to issue patta for the 0.70 cents in Survey No.640/ICI of Matuvarayapuram village, Coimbatore South Taluk, Coimbatore, already assigned to the petitioner.

Prayer in WP.No.19440/13: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Na.Ka.3416/2011/A3 dated 28.03.2013 and quash the same and directing the 3rd respondent to issue patta for the 0.50 cents in Survey No.646/IC of Matuvarayapuram village, Coimbatore South Taluk, Coimbatore, already assigned to the petitioner.

For Petitioners: Mr. Kandan Duraisamy
for R.Sasikumar in all Wps

For Respondents: Mr.B.Anand
Govt. Advocate for R1 to R6
Mr.T.Sreelekha for R7 (in all WPs)

COMMON ORDER

Since the issues involved in three petitions are common and the facts more or less same, all the 3 writ petitions are tagged together. This Court on 17.07.2013, while passing the order of Status Quo passed the order (19438 to 19440 of 2013) reads as under:-

"The writ Petitioners were earlier given allotment by the Government vide order dated 31.5.1990. The petitioners have been in possession and enjoyment of the respective land on the strength of the orders of allotment. The petitioners, after completing the payment of installments, pursuant to the orders of allotment, requested the respondents to grant patta. Since the said request was not considered, the petitioners approached this Court. Thereafter, the issue was considered by the third respondent.

The revenue officials recommended the case of the petitioners for issuing patta by observing that they

have been in possession and enjoyment of the property and there is no objection for granting patta. However, the third respondent rejected the application on the ground of objections from third party. The petitioners are therefore before this Court challenging the order passed by the third respondent.

2. The orders of allotment produced by the petitioners indicate that the lands were given to them by the Government. The related proceedings of the revenue officials also prima facie indicate the possession of the property by the respective petitioners.

3. The order passed by the third respondent, prima facie does not take into consideration the original assignment and the subsequent proceedings initiated by the revenue officials pursuant to the request made by the concerned petitioners for giving patta.

4. The matter requires consideration after the appearance of respondents.

5. Mrs.P.Kavitha, learned Government Advocate takes notice on behalf of respondents 1 to 6. Issue notice to the seventh respondent returnable by 19.8.2013. Private notice is also permitted.

6. Mrs.P.Kavitha, learned Government Advocate takes notice on behalf of respondents 1 to 6. Issue notice to the seventh respondent returnable by 19.08.2013. Private notice is also permitted.

7. There shall be an interim order to maintain status-quo of the property "

2. The writ petitioners were assigned land bearing Survey Nos.646/IB , 640/ICI and 646/IC under Section 94 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act,1961. The petitioners have paid the amount mentioned in the assignment order. The petitioners made representations to the Joint Commissioner, Land Reforms, after completion of 20 years from the date of allotment requesting the authorities to issue permanent patta as prescribed in the order of assignment. In pursuance to the representations, the Joint Commissioner Land Reforms, vide proceedings dated 11.03.2011 directed the Tahsildar/3rd respondent herein to issue permanent patta. The Tahsildar by an order 05.05.2011 pleased to direct the Zonal Deputy Tahsildar to conduct an enquiry and submit report to

grant permanent patta. The Zonal Deputy Tahsildar conducted a detailed enquiry and gave a report on 14.07.2011 stating that the petitioners are in possession of the land assigned to them and have also complied the terms and conditions found in the allotment order and therefore, are eligible for issue of permanent patta.

3. It is stated by the writ petitioners that the Revenue Inspector/5th respondent, VAO/6th respondent also conducted a separate enquiry and came to the conclusion that the petitioners are entitled for permanent patta.

4. Since patta was not granted, the writ petitioners filed Writ Petitions in WP.Nos.10074, 10075 and 10073 of 2012. This Court directed the Tahsildar to consider the representation of the petitioners on merits and pass order.

5. The writ petitioners sent another representation, since the orders were not complied with. A contempt was filed against the Tahsildar. Pending Contempt, the Tahsildar passed proceedings in Na.Ka.3417/2011/A3, Na.Ka.3416/2011/A3 and Na.Ka.3416/2011/A3 dated 28.03.2013, rejecting the grant of patta for the land assigned to the writ petitioners. The writ petitioners have challenged the orders passed by the Tahsildar before this Court by filing the present writ petitions.

6. The Tamil Nadu Land Reforms (Disposal and Surplus Land) Rules, 1965 lays down the procedure for assigning of land to the landless. Under Rule 3 of the said Rules, assigning authority makes a register of surplus land. Under Rule 4, assigning authority invites application for assigning surplus land for publishing notice in Form B of the Rules. Rule 5 specifies the persons eligible for assigning of surplus land and their preference. Rule 6 lays down the procedure to value of the surplus land, by assigning the value to the building and trees, thereon.

7. Applications are invited under Rule 7. Applications are considered and orders are passed under Rule 8. The conditions of assignment are given in Rule 9. Rule 9(iii)(a) states the land shall vest absolutely in the assignee only after the value of the land and buildings and trees thereon is fully paid or after expiry of a period of 20 years whichever is later. The Rule 9 (iii)(a) reads as under:-

"Rule 9:- Conditions of Assignment.

Rule 9(iii)(a) :- The land will vest absolutely in the assignee only after the value of the land and buildings and trees thereon is full [or after the

expiry of a period of twenty years from the date of assignment, whichever is later]."

8. A perusal of the above mentioned Rules and a perusal of the allotment order would show that, all the stipulations under the Tamil Nadu Land Reforms (Disposal and Surplus Land) Rules, 1965 has been complied with and lands stands assigned to the petitioners. The petitioners have paid the entire amount which they are liable to pay. The land therefore has to vest with the petitioner in accordance with Rule 9(iii)(a).

9. The Tahsildar by the impugned order has rejected the applications. The order of rejection does not indicate that the Tahsildar has not considered that the land has been assigned to the petitioners under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, r/w the Tamil Nadu Land Reforms (Disposal and Surplus Land) Rules 1965. No reason has been assigned as to why the petitioners are not entitled to patta. The State has also filed no records to show that any of the condition in the assignment deed has been violated by the petitioners. The only reason given by the Tahsildar is that, there are some objections by the third parties which is not a reason to reject the patta for a land assigned under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 r/w the Tamil Nadu Land Reforms (Disposal and Surplus Land) Rules 1965.

10. The Patta Pass Book Act gives the procedure for the grant of patta. Section 3 of the Patta Pass Book Act, 1983 mandates the Tahsildar to issue patta pass book to every owner in respect of land owned by him. Under Rule 9 of the Tamil Nadu Land Reforms (Disposal and Surplus Land) Rules 1965, the land now stands vest in the petitioners. It is for the Tahsildar to follow the procedures under Section 3 of the Patta Pass Book Act, 1983. There is nothing to show that the Tahsildar has followed Section 3 of the Patta Pass Book Act before issuing patta pass book to the petitioners in whom now the land stands vested. The order of Tahsildar is a completely unreasoned order without even stating whether the procedures prescribed under Section 3 have been followed or not.

11. Section 12 of the Patta Pass Book Act provides for an appeal to the Competent Authority from any order of Tahsildar under the Patta Pass Book Act. Section 13 provides for a revision by the Officer of the Revenue Department, not below the rank of District Revenue Officer to call for examine records of the Tahsildar or the Appellate Authority (in an order passed under Section 12). Even though, there is an appeal Section provided and the further revision provided under Section 13, looking at the impugned order, which is bereft of any

particulars, this Court is of the considered opinion that, the order of Tahsildar must be set aside and the matter must remand back to the Tahsildar for a fresh consideration.

12. The Tahsildar is directed to reconsider the matter keeping in mind the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and Tamil Nadu Land Reforms (Disposal and Surplus Land) Rules 1965, while considering the grant of patta to the petitioners.

13. It must be noted, the land assigned to the petitioners are specified in the allotment order. The respondents who are claiming that they are in possession have to satisfy the Tahsildar as to how they are in possession and as to how the allotment order is wrong. The order of Tahsildar dated 28.03.2013 is set aside and the matter is remand back to the Tahsildar, in the light of the observations made for a fresh consideration. The Tahsildar is directed to pass the order within four weeks from the date of receipt of the copy of this order. The writ petitions are allowed. No Costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Principal Secretary-Cum-
Commissioner of Land Administration,
State of Tamil Nadu,
Chepauk, Chennai - 600 005.
2. Joint Commissioner of Land Reforms,
Gandhiji Road,
Jawans Bhavan, 2nd floor, Erode - 1.
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Alandurai, Coimbatore South Taluk,
Coimbatore.

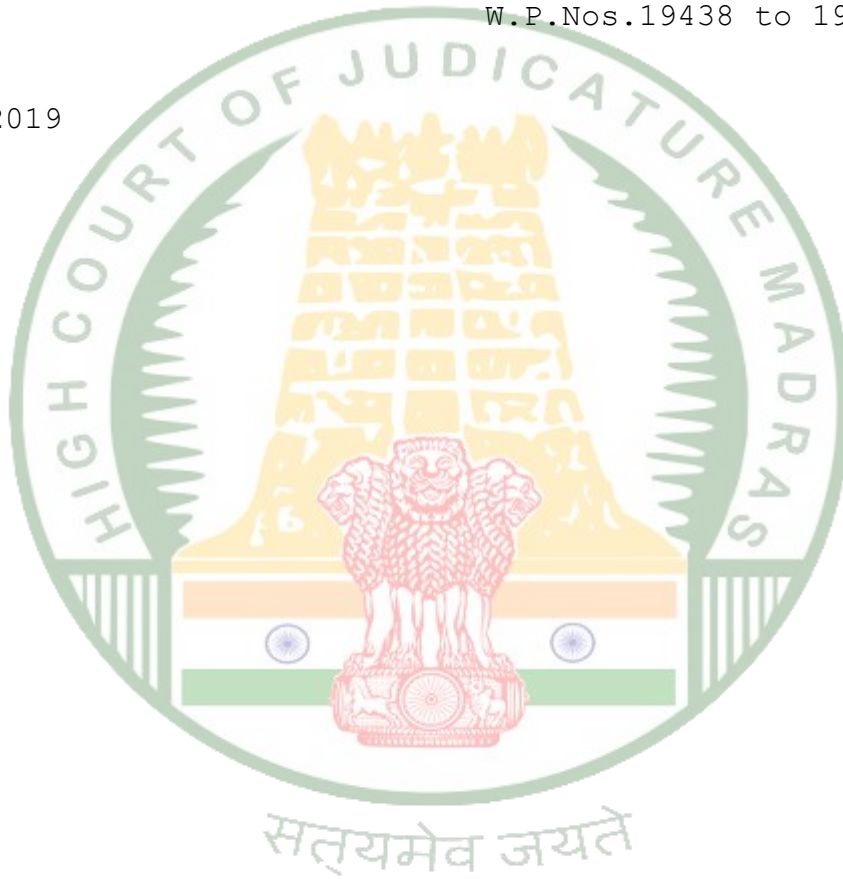
6. Village Administrative Officer,
No.16, Mathuvarayapuram Village,
Coimbatore South Taluk, Coimbatore.

+3cc to Mr.D.Rajagopal, Advocate sr.46438

+3cc to R.Sasikumar, Advocate sr.45912

W.P.Nos.19438 to 19440 of 2013

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