

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 25.08.2019

Pronounced on: 03.10.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.7532 of 2019
& W.M.P.No.8190 of 2019

K.Ramachandra Kurup,
President,
Cine Technicians Association of South India,
No.4/7, 2nd Floor - Nathan Buildings,
North Usman Road - T.Nagar,
Chennai - 600 017.

... Petitioner

/versus/

1. The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Thiruvallur District,
Thiruvallur.
3. The District Revenue Officer,
Thiruvallur District,
Thiruvallur.
4. The Tahsildar,
Poonamallee Taluk,
Poonamallee, Chennai.
5. The Executive Officer,
Kattupakkam Village Panchayat,
Kattupakkam, Chennai.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, forbearing the respondents, their men, agents, servants, subordinates or any one acting under them from in any manner disturbing the peaceful possession and enjoyment of lands by the Association known as "Cine Technicians Association of South India" in lands measuring about 0.52 Hectares situate in S.Nos.176/1 & 176/2 Kattupakkam

Village, Poonamallee Taluk, Thiruvallur District other than by invoking the due process of law and pass orders.

For Petitioner : Mr.T.T.Ravichandran

For R1 to R4 : Mr.K.Ravi Kumar,
Additional Government Pleader

For R5 : Mr.G.Rajesh,
for Mr.V.Jayaprakash Narayanan

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The Petitioner Association seeks Writ of Mandamus, forbearing the respondents from disturbing their peaceful possession and enjoyment of land measuring about 0.52.0 Hectares of land in S.Nos.176/1 and 176/2, at Kattupakkam Village, Poonamallee Taluk, Thiruvallur District.

3. The admitted case of the petitioner is that, the Association was granted Patta for 7.54 acres of land in Kattupakkam Village. They have taken possession of the lands adjacent to it and are in occupation of 1.99 acres of land in Survey Nos. 118, 114, 148, 144, 160, 162, 163, 176/1 & 176/2 but they have no valid title. The Petitioner Association building is in S.No.163, with Electricity service connection. In the year 1999, a proposal to grant patta for the lands in occupation of the Association was mooted by the Tahsildar vide proceedings Na.Ka.No.2981/98/A1, dated 28.09.1999. The proposal was forwarded to District Revenue Officer, for onward submission to Commissioner of Land Administration. On 27.01.2015, the Association has given representation to the Government to give patta for the said land and same is pending with the Government.

4. While so, the petitioner contenting that their undisturbed possession of the said land for the past 25 years is now attempted to be disturbed by one Mr.Gowthaman, a local politician. He along with two Ministers have trespassed into the land and laid foundation stone for constructing Hospital. Therefore, left with no other alternative remedy to protect the right conferred under Article 14 and 300-A of the Constitution. Hence, the present Writ Petition seeking writ of Mandamus, forbearing the respondents, their men, agents, servants, subordinates or any one acting under them from in any manner disturbing the peaceful possession and enjoyment of lands by the

Association known as "Cine Technicians Association of South India" in lands measuring about 0.52 Hectares situate in S.Nos.176/1 & 176/2 Kattupakkam Village, Poonamallee Taluk, Thiruvallur District

5. The 4th respondent/Tahsildar, Poonamalle, has filed counter affidavit on his behalf and on behalf of respondents 2 and 3.

6. In the counter affidavit, it is stated that, the land in S.Nos.176/1 and 176/2 are Government land. Except land in S.No.114 which is possession of the petitioner Association, all other piece of land are poramboke land illegally occupied by the Petitioner Association. The proposal of the Tahsildar, in the year 1999 to assign the land in favour of the Petitioner Association, on collection of market value was not considered by the Government in view of the policy decision of the Government not to assign land in belt area.

7. The land in question is vested with the Panchayat and it is under the control of the Panchayat. The 5th respondent/Executive Officer, Kattupakkam Village Panchayat has proposed to construct Hospital under NHM-SHS-TN Comprehensive Primary Health Care Services Program in S.No.176/2. Not being lawful owner, continuous occupation of the government land will not confer any right or title over the property to the petitioner.

8. The Petitioner Association cannot encroach upon the Government land and construct building to sell for its members. No right endure upon the petitioner either under Article 14 or under Article 300-A of the Constitution of India.

9. The subject land for which mandamus sought is admittedly Government land alleged to have been illegally occupied by the Petitioner association. Whatever be the cause of the Association, it cannot encroach upon the land owned by Government and claim patta over it. Being a land vacant and Revenue record stands in the Government name, the petitioner claim that, they have right over the Government property and that right is deprived violating Constitution Right conferred under Article 300-A is beyond any legal comprehension. Furthermore, the counter affidavit of the 4th respondent indicates that, the said land is identified by the Government to construct Hospital. The affidavit averment of the petitioner that some private individual is trying to grab the land from the possession of the Petitioner Association is false and misleading. A ranked trespasser, land grabber or encroacher of Government land has no locus standi to maintain writ to protect his illegal aggression over the neighbouring land, because the land owned by the Government.

10. Therefore for the reasons, the Writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

bsm

To

1. The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
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Chennai - 600 009.
 2. The District Collector,
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Thiruvallur.
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Poonamallee Taluk, Poonamallee, Chennai.
 5. The Executive Officer,
Kattupakkam Village Panchayat,
Kattupakkam, Chennai.
- +1 CC to Mr.V.Jayaprakash Narayanan, Advocate sr 84650.
+1 CC to Govt. Pleader sr 85126.

Writ Petition No.7532 of 2019

NRL(CO)
SP(06/11/2019)