

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR  
and  
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.22744 of 2019

K.Murugan

... Petitioner

Vs

1. The District Collector,  
Erode District,  
Erode.

2. The Revenue Divisional Officer,  
Gopichettipalayam,  
Erode District.

3. The Tahsildar,  
Bhavani Taluk,  
Bhavani,  
Erode District.

4. Thangavel

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a writ of mandamus, to direct the 2nd respondent to consider and pass appropriate orders on the representation dated 16.08.2017 of the petitioner praying for Cancellation of the Patta No.1361 granted to the 4th respondent in respect of R.S.No.611/31, Olagadam Village, Bhavani Taluk, Erode District in accordance with law.

For Petitioner : Mr.N.U.Prasanna  
for M/S.T.Sai Krishnan

For Respondents: Mr.Akhil Akbar Ali (for R1 to R3)  
Government Advocate

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

Earlier when the petitioner filed WP No.28108 of 2017, seeking for a mandamus directing respondents 1 and 2 therein to remove the alleged encroachment made by 4th respondent therein, on the temple land, comprised in S.No.611/31 admeasuring 2.5

cents of vacant land classified as Natham situated at Olagadam Village, Bhavani Taluk, Erode District, in accordance with law, a Hon'ble Division Bench of this Court, after considering the rival submissions vide order dated 08.01.2019 in WP No.28108 of 2017, observed that the petitioner ought to have sought for appropriate remedy before the concerned Authority, under the Patta Pass Book Act, 1983 and Rules 1987, thereunder, in the manner known to law.

2. At para 32 of the said order, the Hon'ble Division Bench also held that the petitioner therein is not entitled to the relief of removal of encroachment of the 4th respondent therein on the temple land in S.No.611/31 admeasuring 2.5 cents of vacant Land classified as Natham situated at Olagadam Village, Bhavani Taluk, Erode District, in accordance with law. Thus, the said writ petition has been dismissed.

3. After the disposal of the writ petition, without approaching the said authority, petitioner has once again filed the instant writ petition for a writ of mandamus, directing the Revenue Divisional Officer, Gopichettipalayam, Erode District, the 2nd respondent to pass orders on the representation dated 16.08.2017, for cancellation of Patta No.1361 granted to the 4th respondent in respect of R.S.No.611/31, Olagadam Village, Bhavani Taluk, Erode District.

4. Representation dated 16.08.2017, said to have been made to the (i) District Collector, Erode, (ii) Revenue Divisional Officer, Gobichettipalayam, Erode District and (iii) Tahsildar, Bhavani Taluk, Erode District, is reproduced.

"Sir,

One Thangavelu son of Semmana Mudaliyar of Nagarattipalayam created a document in Sub-registrar office at Anthoor, in Document No.487/1997 based on such said Thangavelu obtained patta in Patta No.1369 and broke the Natham Survey No.611/21 into Survey No.611/31.32, which is sub divided. The entire land said in Survey No.611/21 belongs to Shree Angalamman Temple in Olakadam Village, Bhavani Taluk at Erode District. The said land was used for celebrating temple festival days.

As per Sec 5 of Tamil Nadu Patta Passbook Act 1983 without patta no land transfer can be made by the Registrar in the Registrar's office. The said explanation of the Hon'ble High Court is enclosed. Hence the Document No.487/1997 registered by the Atthiur Sub-registrar is not valid. Due to same unwanted issues are arising.

Though the document is registered by the Sub-Registrar of Athiur same ought to have been cancelled by the Thasildar due to the reason that the transfer

of village land to S.Thangavelu is not valid. Revenue officials has recorded that as per the order in T.K./8A/43/1411 Patta was granted. In the record of Bhavani Thasildar office it is shown that THA.A.U.SA.316/2016/S in Natham Survey No.611. As per the Taluk Office T.K./8A/43/1411 dated 18.07.2011 it was wrote as inner division 21.31 and 32. On 22 report of the Thasildar it is shown that the place is sold. As a matter of facts no any such order was passed in T.K./8A/43/1411. It is found in the statement of the Thangavelu dated 16.06.2001 that the said land was in his possession for past 50 years.

If he is in possession for past 50 years in the land as he stated in the statement why it is necessary for him to get sale registered in Document No.489/1997. Probably it may be a suggestion of the Bhavani Sub-Registrar offie to Mr.Thangavelu that based on the sale deed the patta can be registered.

I doubt the said order in TK/8A/43/1411 was passed as if that the illiterate people may accept whatever order passed by Thasildar. Based on the forged sale deed the said order was passed as if no one may doubt it. Since the said order in TK/8A/43/1411 was not passed it is not found in the office. Hence this create more trouble to the local people.

The transfer of patta for the village natham land based on the order passed in TK/8A/43/1411 is against the patta passbook Act. Moreover departmental action should have been taken against the Thasildar for illegally transferring the Patta.

I made a petition to you regarding this on 01.11.2016. Based on the said petition you made a letter on 11.11.2016 in O.MU.No.31334/2016/24 to the Sub-Collector, Gopichettipalayam to take action.

However past eight months to till today no any report or information is furnished to me.

Hence it is respectfully prayed that the action may be taken against Thangavelu for the encroachments made in land belongs to Shri.Angalamman temple situated at Ollagadam, Bhavani Taluk, Erode District in Survey No.611/31 and to hand over the land to the temple administration."

5. Going through the same, we do not find that the petitioner has sought for cancellation of patta, but on the contra, petitioner has only sought for action, for removal of alleged encroachment made in the land belonging to Shri Angalamman Temple, situated at S.No.611/31, Olagadam Village, Bhavani Taluk, Erode District. Instant writ petition is nothing but repetition of the earlier writ petition WP No.28108

of 2017. There are absolutely no merits in the writ petition. For the reasons stated supra, writ petition is dismissed. No Costs.

Sd/-  
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,  
Erode District,  
Erode.

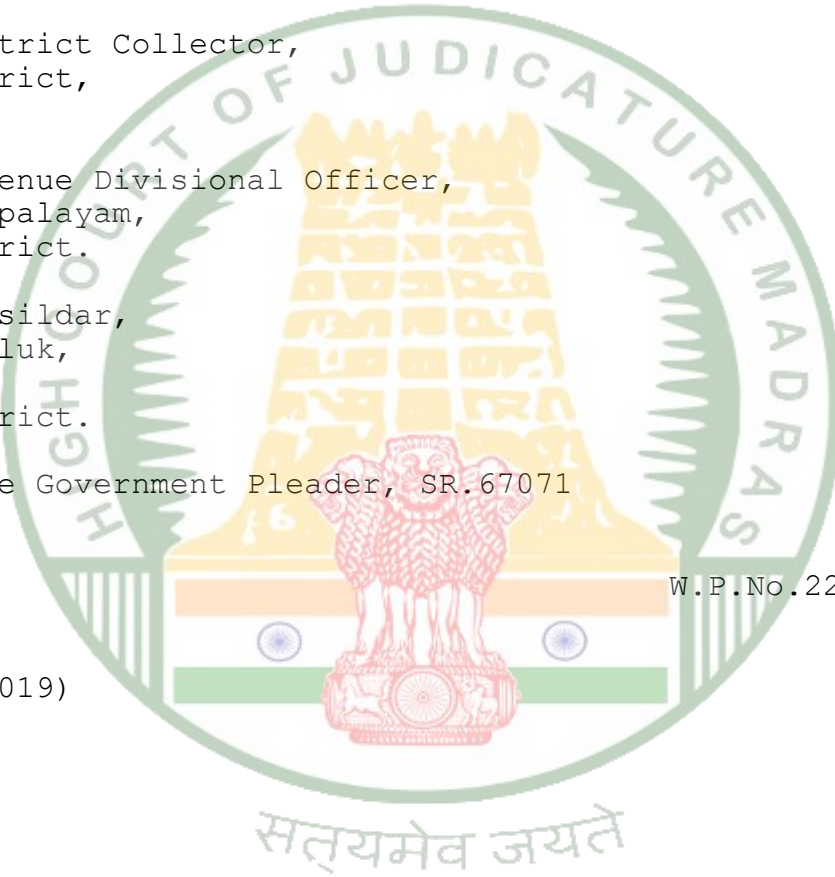
2. The Revenue Divisional Officer,  
Gopichettipalayam,  
Erode District.

3. The Tahsildar,  
Bhavani Taluk,  
Bhavani,  
Erode District.

+1cc to the Government Pleader, SR.67071

W.P.No.22744 of 2019

KS(CO)  
CB(03/10/2019)



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