

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.10.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WRIT PETITION NO.21353 OF 2019

P.N.Surya Prakasam

... Petitioner

Vs

1.The Joint Commissioner,
H.R & C.E Department,
Vellore - 9.

2.The District Collector,
Tiruvallur District,
Tiruvallur - 602 001.

3.The Revenue Redressal Officer, (Jamabandhi Officer),
Poonamallee Taluk,
Poonamallee,
Chennai - 600 056.

4.The Tahsildar,
Poonamallee Taluk,
Poonamallee,
Chennai - 600 056.

5.B.Kesavan

6.A.K.Chinnadurai

7.D.Muhammed Ishmail

8.R.Kalaiselvi

9.Krishnamoorthi

10.K.V.Ragaven

11.V.S.Nagaraaj

12.M.Vasudevan

13.A.Mubarak Ali

14.K.Govindhammal

15.N.Jeyalakshmi

16.R.Jeyaraman

17.S.Ganesan

18.G.Thangaraj

19.S.Seithunbivi

20.N.Anandhi

21.E.Saiyed B

22.E.Muhammed Moidin

23.G.Bashkaran

24.M.Vasantha

25.S.Sankar

(R5 to R25 impleaded as per order dated 26.09.2019

Made in WMP.No.27540 of 2019 in WP.No.21353 of 2015 in GJJ)

... Respondents

Prayer :-This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus, praying to direct the respondents 2 to 4 to consider the representations of the petitioner, dated 08.06.2018, 29.10.2018 and 30.06.2018 and to conduct proper enquiry, affording necessary and full opportunity to the petitioner to put forth to the case of the petitioner temple in respect of the temple lands in S.Nos.115/74 and 115/74A, Poonamallee Village and decide and dispose of the issues with regard to issuance of patta within a time frame, stipulated by this Court.

For Petitioner :Ms.G.Sumitra

For Respondents :Mr.M.Maharaja
Special Government Pleader
(HR & CE) for R1
Mr.N.Inbanathan,
Additional Government Pleader
for R2 to R4
I.Paranthaman
for R5 to R25

ORDER

Heard the counsel for the petitioner and the learned Special Government Pleader (HR & CE) appearing for R1 and the learned Additional Government Pleader appearing for respondents R2 to R4.

2. The private parties have taken note of the petition to implead themselves as respondents R5 to R25, which has been opposed by the writ petitioner. The case where the writ petitioner calling himself as Hereditary Trustee of Arulmighu Vaitheeswarar Swami Temple, Poonamallee, Chennai - 600 056, alleges that the respondent herein is making all attempts to issue patta in favour of the proposed respondents 5 to 25 behind his back in respect of the temple property bearing Survey No.115/74A measuring an extent of 12.73.5 hectares.

3. The case of the petitioner is that vast extend of land around Poonamallee, under S.Nos.115/74 and 115/74A are owned by the petitioner temple and the adangal register issued by the

Revenue Department, indicates S.No.115/74A, with various sub divisions stands in the name of the temple. Subsequently, some manipulation has taken place, as if S.No.115/74A classified as Gramanatham and with the said manipulation attempt is made to issue patta in favour of third parties. The affidavit filed in support of the writ petition did not disclose the name of the 3rd parties.

4. Knowing the filing of writ petition, the third parties got themselves impleaded as respondents 5 to 25. The fourth respondent has filed a counter stating that the temple, no doubt, hold vast land in that area totalling an extent of 12.73.5 hectares. Whereas, S.No.115/74A in the village revenue accounts is classified as Gramanatham. Several individuals have occupied the Gramanatham and also put up constructions. Hence, it is identified as house in occupation (HOC). Those occupants have given representations to issue patta in their favour and same is under consideration.

5. Taking note of the possession and occupation, the proceedings has been initiated. It is specifically stated in the counter that before assigning house site patta to any individual, objections from the public will be called and only after considering the objections, patta will be issued. In anticipation and apprehension, the petitioner has filed the writ petition stating that patta is likely to be granted to the third parties without notice, which is incorrect. As per the Revenue accounts, the land being classified as "Gramanatham". If at all the temple authority is having title they have to approach the Competent Civil Court and get orders. The writ petition is not maintainable.

6. The learned counsel appearing for the impleading respondents would submit that the fore-fathers of the respondents were tenants under the temple under the belief that the land belongs to temple land rent was paid to the temple till the year 2015. Later when they came to know from the revenue records that the property is a "Gramanatham" and land does not belong to the temple, they stopped paying rent to the temple and they have sought for issuance of patta. The Revenue records indicate that S.No.115/74A classified as Gramanatham. It is under continuous possession and enjoyment of the impleaded respondents and they have made request to the Tahsildar for grant of patta and enquiry has also been conducted.

7. From the rival submissions of the petitioner temple, private respondents as well as Government Advocate and from the documents relied by them, it is clear that the land which is now enjoyed by the private respondents were let out by the temple to the ancestors of the respondents and they have paid

rent till 2015. The property was classified as Arulmighu Vaitheeswarar Swami Temple. The revenue records at some point of time land bearing S.Nos.115/74 and 115/74A, were mutated as "Gramanatham". How the re-classification has taken place is not properly explained by the Tahsildar in his counter. He has made a specific averment in his counter that the petitioner temple has not produced any document to show the ownership and if at all they are the owners of the property, they should approach the Competent Civil Court for declaration. This contention of the Tahsildar is not tenable for the present issue under consideration. Both the petitioner as well as proposed respondents admit that the land was held by the temple and let out to the ancestors of the private respondents. The adangal issued by the Revenue Department, indicates the particular survey number along with the other survey numbers, were the properties of the petitioner temple. Therefore, before considering assignment of patta to any third party, it is the bounden duty of the revenue officials to first ascertain the classification of the land, the owner of the land and present occupants. In this case, without proper notice to the temple and proper enquiry, no order can be passed regarding assigning of patta to occupier.

8. Therefore, this Court holds that respondents 2 to 4 shall not issue patta in favour of third party occupants without proper enquiry and without opportunity to the petitioner temple. In the enquiry, the petitioner temple shall produce all relevant records to show the title over the property and establish the right over the property.

9. The learned counsel for the petitioner submits that certain records sought by the petitioner are not furnished by the revenue authorities. If, any revenue records are sought by the petitioner as well as the respondents, the same may be furnished by the Revenue Department and thereafter, the concerned authority shall conduct enquiry on the application given by the private respondents and pass orders as expeditiously as possible.

8. Accordingly, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Commissioner,
H.R & C.E Department,
Vellore - 9.
2. The District Collector,
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Tiruvallur - 602 001.
3. The Revenue Redressal Officer, (Jamabandhi Officer),
Poonamallee Taluk,
Poonamallee, Chennai - 600 056.
4. The Tahsildar,
Poonamallee Taluk,
Poonamallee, Chennai - 600 056.

+1cc to Ms.G.Sumitra, Advocate, S.R.No.85735
+1cc to Mr.N.Inbanathan, Advocate, S.R.No.85811
+1cc to the Government Pleader, S.R.No.86101
+1cc to the Special Government Pleader, S.R.No.86599

Writ Petition No.21353 of 2019

BS(CO)
CS/25/10/2019