

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.26782 of 2019

S.Muthukumar

Petitioner

Versus

- 1.The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
St.George Fort,
Chennai - 600 009.
- 2.The Revenue Secretary,
Government of Tamil Nadu,
Secretariat,
St.George Fort,
Chennai - 600 009.
- 3.The Commissioner for Revenue Administration,
Department of Revenue,
Ezhilagam, Chepakkam,
Chennai - 600 005.
- 4.The District Collector,
Office of District Collector,
Thiruvallur District,
Thiruvallur.
- 5.The District Revenue Officer,
Office of District Collector,
Thiruvallur District,
Thiruvallur.
- 6.Thasildar,
Poonamalle Thasildar Office,
Poonamallee,
Chennai - 600 056.

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to consider the petitioner's representation dated 08.07.2019 to the respondents 1 to 6 given by the petitioner, thereby protecting the weaker section of the people especially Adi Dravidars and Scheduled Tribes and protecting them from social injustice and all forms of exploitation.

For Petitioner : M/s.Prof.M.Udaya Bhanu

For RR 1 to 6 : Mr.A.N.Thambidurai,
Special Government Pleader

O R D E R

[Order of the Court was made by M. SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. The petitioner claims to be a permanent resident at Door No.1/109, Perumal Koil Street, Adayalampattu Village, Maduravoyal Taluk, Thiruvallur District. In the present writ petition, styled as a Public Interest Litigation, he avers that he is a social worker, functioning exclusively for the upliftment of poor and downtrodden people, especially for the rights of people belonging to Schedule Caste community. It is stated by the petitioner that in the said village, people belonging to Schedule Caste community are living for more than five generations and most of the people belonging to the said community, including the petitioner, do not have any permanent dwelling place or house and some of them are living even on platforms and that the said village is classified as "Village Slum" (in tamil, "Cheri Natham") and all of them are eking out their livelihood as daily coolies. The petitioner, on behalf of the villagers, submitted several representations to the Government to allot lands in Survey Nos.34/1A and 41/1, admeasuring to an extent of 2 ¼ acres and despite very many repeated representations, no proper response is forthcoming.

2.The petitioner, in Paragraph No.9 of the affidavit filed in support of this petition, would aver that the 7th respondent had purchased 2.83 acres of land in Survey Nos.41/2, 34/2 and 14 cents of land in S.No.34/1A and that there are documents in favour of the 7th respondent with regard to the said lands. Since the said lands are classified as "Village Slum (Cheri

Natham)", the 7th respondent is not entitled to purchase and get patta in respect of the said lands and that apart, the 7th respondent is also in illegal occupation of 1 acre and 63 cents and has also put a compound wall. The petitioner has also invoked the provisions under Right to Information Act and has sought information and thereafter, came forward to file this writ petition, praying for cancellation of patta granted to the 7th respondent as well as for removal of encroachments on the part of the very same respondent in respect of the land admeasuring to the extent of 1 acre and 63 cents. It is also the claim of the petitioner that the 7th respondent has produced bogus documents to obtain patta and it is nothing but, adoption of fraudulent means and therefore, the petitioner prays for appropriate orders.

3.M/s.M.Udaya Bhanu, learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents, especially to the information obtained under the Right to Information Act and would submit that the 7th respondent was issued with patta in respect of lands in Survey No.41/2 admeasuring to an extent of 0.35.50 acres and in Survey No.34/1B admeasuring to an extent of 0.30.50 acres in Adayalampattu Village, Maduravoyal Taluk, Thiruvallur District. The learned counsel submits that though the said lands have been classified as "Rayathuvaari", actually, it is a "Village Slum (Cheri Natham)" and since the 7th respondent managed to get title in respect of the said lands through fraudulent means and managed to get patta, it should be cancelled forthwith and that apart, the illegal occupation of the 7th respondent in the said lands admeasuring to an extent of 1 acre 63 cents has to be removed forthwith and hence, prays for appropriate orders.

4.This Court has carefully considered the rival submissions and has also perused the materials placed before it.

5.The 'Revenue Standing Order, 2015' ('RSO 2015' for brevity) deals with classification of the lands and the classification of lands enumerated therein does not speak anything about the "Village Slum (Cheri Natham)". When the Court has put up a specific query to the learned counsel for the petitioner as to whether any provisions of the RSO 2015 or any other instructions prohibit alienation of the lands classified as "Village Slum (Cheri Natham)" in favour of private parties and consequently prohibit obtaining of patta, the learned counsel is unable to point out any such specific provision banning or prohibiting the purchase or getting patta in respect of the said lands.

6.The Tamil Nadu Patta Pass Book Act, 1983 (Act 4 of 1986) provides for issuance of Patta Pass Book to holders of

agricultural lands.

7. In *Selvaraju v. The District Revenue Officer, Thanjavur District* [2015 6 CTC 654], a writ petition was filed challenging the order passed by the competent authority adjudicating the issue of title between parties and subsequent orders for mutation of revenue records. A Single Bench of this Court, while dealing with the case had taken note of the judgments of this Court in *T.R.Dinakaran v. The Revenue Divisional Officer* [2012 3 CTC 823] (Single Bench), *C.Sabesan Chettiar v. The District Revenue Officer, Coimbatore District* [2011 (5) CTC 241] (Division Bench) and yet another Division Bench's decision in *Vishwas Footwear Company Ltd. v. The District Collector, Kancheepuram and others* [2011 (5) CTC 94], and has held that since the issue involved requires evidence, the same cannot be adjudicated by the Revenue Authorities.

8. In fact, in the earlier decision rendered by a Division Bench of this Court in *Vishwas Footwear Company* (cited supra), it is held that the writ petitions based on disputed question of fact cannot be entertained in the light of the effective alternate remedy available under the provisions of the Tamil Nadu Patta Pass Book Act, 1983 (Act 4 of 1986). It is also held that in case of title dispute between parties, a writ Court will not normally entertain and adjudicate the case involving disputed question of fact.

9. Admittedly, in the present writ petition, which is filed as a Public Interest Litigation and not as an adversarial litigation, the only stand taken by the petitioner is that, since the concerned lands have been classified as "Village slum (Cheri Natham)", the 7th respondent cannot have title or patta in respect of the said lands. As already pointed out, in the absence of any specific prohibition or bar in the law or any statutory provisions, rules or regulations, it is not open to the petitioner to question the title of the 7th respondent in respect of the lands purchased by her, for which, she has also been issued with patta. It is also the claim of the petitioner that the 7th respondent, apart from getting patta in respect of the lands, has also encroached 1 acre and 63 cents of land, that is, 63 cents of land in S.No.34/1-A and 100 cents of land in S.No.41/1 part, for which also, there are no supporting materials except the submissions made by the petitioner in the affidavit filed in support of this writ petition. Even in the representation dated 08.07.2019 submitted by the petitioner to the official respondents, no document has been furnished to support the grievances expressed by the petitioner in this writ petition.

In the light of the above facts and circumstances, this

Court is of the considered view that there is no merit in this writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mkn/tsg

To

- 1.The Chief Secretary,
Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai - 600 009.
- 2.The Revenue Secretary,
Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai - 600 009.
- 3.The Commissioner for Revenue Administration,
Department of Revenue,
Ezhilagam, Chepakkam,
Chennai - 600 005.
- 4.The District Collector,
Office of District Collector,
Thiruvallur District,
Thiruvallur.
- 5.The District Revenue Officer,
Office of District Collector,
Thiruvallur District, Thiruvallur.
- 6.The Tahsildar,
Poonamalle Tahsildar's Office,
Poonamallee, Chennai - 600 056.

+1cc to Mr.Udayabanu Advocate, S.R.No. 79609
+1cc to the Government Pleader, S.R.No. 79677

WP.No.26782 of 2019

MG(CO)
GN(01/11/2019)