

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.28530 of 2019

Kaliyamoorthy

...Petitioner

Vs

1.The District Collector,
Villupuram,
Villupuram District.

2.The Tahsildar,
Anichamkuppam,
Keezhputhupattu,
Marakkanam Taluk,
Villupuram Taluk.

3.The Executive Officer,
Anichamkuppam Panchayat,
Marakkanam Taluk,
Villupuram District.

4.Jayasundari

5.E.Vasanthi

6.Ramani

7.Anna Lakshmi

... Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the 2nd respondent to consider the representation dated 03.07.2019 to cancel the patta issued to the respondents 4 to 7 in public burial ground in Survey no.219/2,3,4,5,6,7,8 in Anichamkuppam Village, Kilputhupattu Pot, Marakkanam Taluk, Villupuram District, within the time frame fixed by this Court.

For Petitioner : Mr.S.Sarath Chandran

For Respondents: Mr.E.Manoharan
Additional Government Pleader
for R1 to R3

Mr.M.R.Thangavel for R4

ORDER

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

The writ petition, styled as a Public Interest Litigation, is filed by a resident of Anichamkuppam Village, Kiputhupattu Post, Marakkanam Taluk, Villupuram District and according to him, he is filing this Writ petition styled as a Public Interest Litigation on behalf of the people of the said Village as well as Gangai Nagar Sri Lankan Refugee Camp. It is the specific case of the petitioner that the people in Anichamkuppam, and Gangai Nagar Sri Lankan Refugee Camp are burying dead bodies in S.No.219 in Kilputhupattu Village, Marakkanam Taluk, Villupuram District for more than 100 years and recently they came across an information that the respondents 4 to 7 managed to get patta in respect of the land after sub-division and immediately they approached the concerned official respondents to take appropriate action to restore the said land as a burial ground and despite receipt and acknowledgment of the representations, no action whatsoever has been taken by them and therefore, the petitioner has come forward to file this Writ Petition. The writ petition was listed twice and adjourned and it is listed today under the caption "'Adjourned Admission'".

2. The learned counsel appearing for the petitioner has invited the attention of this Court to the typed set of document and would submit that as per the proceedings of the Deputy Tahsildar No.2, Tindivanam Division dated 04.03.1999 in Mu.Mu. (A6) R.T.R.74/1408, the patta in respect of Kilputhupattu Village Resurvey No.219/2 was ordered to be changed by removing the name of Ranganayagi W/o.Vaidyanathan and inclusion of the name of Mr.Raghu, S/o.Nagamuthu and thereafter pattas in respect of certain extent of land in S.Nos.219/2, 4, 5, 6, 7 & 8 have been granted in favour of Jayasundari, Annalakhmi, Krishnammal, Pattuammal, Ramani, and Vasantha respectively and they intend to exploit the land for commercial purpose and becoming aware of the same, the residents of the said Village met the officials concerned and expressed their grievances and that apart conducted dharnas and demonstrations to cancel the said pattas.

It is the further submission of the learned counsel appearing for the petitioner by drawing the attention of this Court to the additional typed set of papers dated 11.09.2019 that the Office of the Tahsildar / 2nd respondent, Marakkanam in the Information Memo dated 27.05.2019 in Na.Ka.No.Aa1/451/2019 has also informed some of the residents as to the further action taken with regard to the grant of pattas in favour of the private respondents and since the relevant records are not available, steps are being taken to address the same and as and when the records are traced, further steps would be taken and in the light of the said communication, this Court may pass appropriate orders preventing/restraining the private individuals to go ahead with the exploitation of lands, in the light of the pattas granted in their favour.

3. Mr.E.Manoharan, learned Additional Government Pleader appearing for the official respondents would submit that it has also resulted in law and order problem and proceedings under Section 145 Cr.P.C has also been initiated and as per the revenue records made available, the land in S.No.219/3 admeasuring to an extent of 1.53.0 ares has been classified as 'burial ground' and no patta has been granted in favour of private individuals.

4. Mr.M.R.Thangavel, learned counsel appearing for the 4th respondent has invited the attention of this Court to the typed set of documents and would submit that admittedly, the pattas have been granted and unless the said pattas have been cancelled in the manner known to law, the petitioner, who claims to be a public interest litigant, cannot invoke the jurisdiction of this Court in the form of the writ petition, styled as Public Interest Litigation, to cancel the pattas and would further add that the points urged by the learned counsel appearing for the petitioner will require adjudication of disputed question of facts and on that ground also, the writ petition is not maintainable and prays for dismissal of this writ petition.

5. This Court has considered the rival submission and also perused the materials placed before it.

6. One Mr.Chakrapani, on an earlier occasion, had filed W.P.No.21920 of 2019 against the Collector of Villupuram District, the Thasildar, Marakkanam, Villupuram District and the Inspector of Police, F-1, Kottakuppam Police Station, Villupuram District praying for issuance of a Writ of Mandamus directing the respondents to exhume and remove the corpses buried in their land in S.Nos.219/5, Keelputhupattu Village, Marakaanam Taluk, Villupuram District and rebury the same in the

licensed graveyard in S.No.219/3, Keelputhupattu Village, Marakaanam Taluk, Villupuram District and it was disposed of on 05.08.2019 with a direction, directing the Executive Magistrate, Marakaanam to conduct the enquiry under Section 145 Cr.P.C by affording an opportunity to all the parties and pass final orders within a period of six weeks from the date of receipt of copy of that order and depending upon the result of the final orders to be passed by the Executive Magistrate, the petitioner can workout his further remedy in accordance with law and accordingly, the Revenue Divisional Officer, Marakaanam, in the proceedings dated 09.10.2019 in Na.Ka.No.Aa1/451/2019, had initiated further proceedings to comply with the order and also passed an order under Section 145 Cr.P.C not to enter upon the said land and also maintain law and order problem.

7. The proceedings of the Tahsildar, Marakaanam dated 27.05.2019 (referred supra) would also indicate that as per the proceedings dated 21.08.2000, free house site patta has been granted on 06.06.2001 in T.K.8A/795/1410F in respect of the lands in S.Nos.219/2,4,5,6,7 & 8 and necessary corrections have also been made in the relevant revenue records and as to whether any irregularities had occurred in grant of patta records, records are not available and as and when the records are traced further action will follow.

8. In the light of the above facts and circumstances, at this juncture, this Court is not in a position to come to the aid of the petitioner. However taking into consideration of the above cited materials, this Court directs the Revenue Divisional Officer, Marakaanam to conclude the proceedings in compliance of the order dated 21.09.2019 as expeditiously as possible and further directs the Tahsildar, Marakaanam to take necessary steps to trace the records relating to grant of free house site patta in respect of land in S.Nos.219/2,4,5,6,7,8 at the earliest and act accordingly strictly in accordance with law and in that process, they shall also adhere to the principles of natural justice by putting the persons concerned on notice.

9. The writ petition stands disposed of with the above directions. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The District Collector,
Villupuram, Villupuram District.

2.The Tahsildar,
Anichamkuppam,
Keezhputhupattu,
Marakkanam Taluk,
Villupuram Taluk.

3.The Executive Officer,
Anichamkuppam Panchayat,
Marakkanam Taluk,
Villupuram District.

+1 cc to M/s.S.Sarath Chandran Advocate sr98879
+1 cc to M/s.C.Anbu Advocate sr98995
+1 cc to the Government Pleader high Court, Madras
sr 99444

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