

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21569 of 2017
and

W.M.P.Nos.22557 to 22559 of 2017

1.N.Jeyavel
S/o.Natarajan

2.N.Viswanathan
S/o.Natarajan

3.N.Karthikeyan
S/o.Natarajan

... Petitioners

Petitioners are represented by their
Power Agent and Authorized Representatives

1.V.Kaliyaperumal

2.M.Rajab Mohideen

-vs-

1.The Principal Secretary,
Land Administration,
Elilagam, Chepauk,
Chennai-600 005.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The District Revenue Officer,
The District Revenue Office,
Kancheepuram District,
Kancheepuram.

4.The Revenue Divisional Officer,
Tambaram Division,
Tambaram, Chennai-600 044.

5.The Tahsildar,
Sholinganallur Taluk,
Sholinganallur, Chennai-600 119.

6.The Revenue Inspector,
Sholinganallur Firca, Sholinganallur,
Chennai-600 119.

7.The Village Administrative Officer,
Sholinganallur Village,
Sholinganallur, Chennai-600 119.

8.The Inspector of Police,
Teacm-XVIII, Central Crime Branch,
Chennai-600 007.

9.The Inspector of Police,
J-10, Semenchery Police Station,
Sholinganallur, Chennai-600 119.

10.Sub-Registrar, Neelangarai,
Office of the Sub-Registrar,
Neelangarai, Chennai-600 041.

11.The Managing Director,
Tamil Nadu Cooperative Milk Producers
Federation Ltd.,
Aavin Illam, Chennai-600 051.

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Mandamus directing the 5th
respondent to enter the name of the petitioners in the revenue
records namely Chitta, Adangal and A-Register as registered
holders for the Schedule Property and restore the patta No.6424
in the name of the petitioners.

For Petitioners: Mr.R.Balachanderan

For Respondents: RR1 to 9 - Ms.A.Sri Jayanthi,
Special Government Pleader

: R10 - Mr.P.P.Purushothaman
Government Advocate

: R11 - Mr.N.Lakshmanan &
Mr.S.Sathishrajan

ORDER

Heard Mr.R.Balachanderan, learned counsel for the petitioners; Ms.A.Sri Jayanthi, learned Special Government Pleader appearing for respondents 1 to 9; Mr.P.P.Purushothaman, learned Government Advocate for the 10th respondent; and Mr.N.Lakshmanan and Mr.S.Sathishrajan, learned counsel for the 11th respondent.

2.Mr.T.Ramesh, Deputy Tahsildar, Sholinganallur Taluk; and Mr.K.V.Subash, Typist, Sholinganallur Taluk are present in Court.

3.This writ petition has been filed by three petitioners viz., N.Jeyavel, N.Viswanathan and N.Karthikeyan, sons of K.Natarajan praying for a direction to the fifth respondent to enter the name of the petitioners in the revenue records, viz., Chitta, Adangal and A-Register as registered holders of the property comprised in Survey No.439/2, Sholinganallur, measuring an extent of 5 acres and 92 cents and to restore the patta in Patta No.6424 granted in the names of petitioner.

4.A small preview is required to be considered as to what is the nature of relief that the petitioners are entitled to in this writ petition.

5.The petitioner's case is that S.No.439/2 has been sub-divided and ryotwari patta has been granted in the name of several persons and to substantiate the same, bunch of pattas have been enclosed in the typed set of papers. It is submitted that similar such patta was granted in the name of the petitioners' father K.Natarajanaicker on 30.05.2011, which shows that the property is sub-divided as S.No.439/2. On the strength of the patta, the petitioners' father settled the property in the names of the petitioner by executing a deed of settlement dated 09.06.2011, and presented the same for registration before the Sub Registrar, Neelangarai. The said document was not taken up for registration immediately, and there was an allegation that the patta granted in the name of the petitioners' father had been cancelled. Therefore, the petitioners' father and the petitioners filed a writ petition in W.P.No.9003 of 2013 for a direction to the District Collector, Kancheepuram; Revenue Divisional Officer, Tambaram; and Tahsildar, Sholinganallur to restore the patta in the name of the petitioners' father, K.Natarajan. The said writ petition was withdrawn on the ground

that the patta has been restored on 04.07.2013 in Patta No.1803. The writ petition was dismissed on 10.07.2013 as withdrawn. Subsequently, the petitioners applied for change of patta in their names on the strength of the settlement deed executed by their father, which by then had been registered. The patta has been granted in the names of the petitioner bearing Patta No.6424, dated 12.06.2013.

6.The petitioners, represented by their Power Agents, V.Kaliyaperumal and M.Rajab Mohideen, filed a suit in O.S.No.367 of 2013 on the file of District Munsif, Alandur against the eleventh respondent herein and the Secretary to Government, Agricultural Department, Chennai, who were impleaded as defendants 1 and 2 in the suit. The petitioners sought for an order of interim injunction and the Court by order dated 28.04.2014, in I.A.No.680 of 2014, had granted an order of interim injunction till 09.06.2014.

7.It is submitted that the suit is still pending and the matter has been contested by the eleventh respondent herein, who is the first defendant in the suit. In the mean time, the District Collector, Kancheepuram, vide proceedings dated 13.06.2014, constituted a Committee consisting of the Special District Revenue Officer (Airport Land Acquisition), Sriperumbudur; Assistant Director (Survey & LR) Kancheepuram; Revenue Divisional Officer, Tambaram; and Tahsildar, Sholinganallur, to probe in to the aspect as to how the pattas were granted in favour of the private parties (petitioners/petitioners' father), since the land has been classified as Manthaveli Poramboke.

8.The petitioners herein challenged the said proceedings of the District Collector, Kancheepuram by filing a writ petition in W.P.No.16396 of 2014. The said writ petition was disposed of by order dated 24.06.2014, directing that the petitioner cannot be aggrieved by constitution of such a Committee and the petitioner would be sufficiently protected, if he is put on notice and verification be done after enquiring the petitioner. Though the writ petition was disposed of with such direction, wherein this Court did not interfere with the order passed by the District Collector dated 13.06.2014, the concerned committee did not proceed with the matter and it appears that the matter was kept pending and parallely, a criminal complaint was laid by the Tahsildar, Sholinganallur to the Commissioner of Police, Chennai on 08.08.2014 in which, the names of two of the officials have also been mentioned along with the petitioners and their father. Based on the said complaint, FIR was

registered in Crime No.396 of 2014 for offences under Section 406, 420, 463, 464, 465, 467, 468 and 471 read with 120 (b) IPC. The petitioners would state that they have filed a petition to quash the proceedings and the Court has granted stay of all further proceedings in respect of the petitioners.

9.The respondents would submit that in respect of the officials, charge sheet has already been filed. The petitioners have approached the Special Court for Land Grabbing Cases and obtained an order of bail and the matter is now pending. At this juncture, the petitioners have come forward with the present writ petition.

10.The learned counsel for the petitioners after referring to the voluminous documents placed before this Court submitted that there are sufficient record to show that the patta was granted in favour of the petitioners' father, subsequently, transferred in the name of the petitioners and ignoring all those aspects, the Tahsildar has given a complaint, that too, after a committee was constituted by the District Collector on 13.06.2014, to enquire into the wrong claim made by private parties. Therefore, it is submitted that based on the records, which were placed before this Court which have all been obtained by the petitioners under the Right to Information Act, patta has been restored in the names of the petitioner.

11.The learned Special Government Pleader, on the other hand, submitted that there are sufficient records to show that the land in question has been recorded in revenue records as "Manthaveli Poramboke" and the person who had done the corrections in the revenue records had been investigated and charge sheet has also been filed and the matter is now seized of by the private parties. At this juncture, the relief sought for should not be granted. सत्यमेव जयते

12.The Investigation Officer, viz., the eighth respondent has filed a counter affidavit. The eleventh respondent, Aavin has also filed a counter affidavit stating that armed with the ex-parte injunction, the petitioners attempted to encroach the property owned by Aavin, which was successfully prevented and as on date, Aavin is in possession of the property. Further, it is contended that in view of the cancellation of the patta by the fifth respondent, Tahsildar, there is absolutely no right in favour of the petitioners.

13.The learned counsel for the petitioners strongly disputed the contention that Aavin is in possession of the property. However, it is not the subject matter of controversy in the present writ petition and what the Court has to see is whether the relief sought to enter the names of the petitioner in the revenue records as registered holders by restoring patta no.6424 can be granted or not.

14.In the considered view of this Court, such a prayer cannot be granted at this juncture because of the factual matrix, which have been elaborately set out in the preceding paragraphs. It would suffice to reiterate that the District Collector, Kancheepuram, by proceedings dated 13.06.2014, noted the communication sent by the eleventh respondent stating that the petitioners have filed a suit in O.S.No.367 of 2014 before the Principal District Munsif, Alandur with regard to parcel of the property in S.No.439/2 and they have also produced patta nos.1803 and 6424 and claimed ownership and requested for a detailed enquiry to find out as to how pattas were allegedly given to private parties, when the property has been classified as "Government Land". The District Collector, taking note of the said request of the eleventh respondent, in the view of this Court, rightly constituted the committee to probe into the matter, because there was suspicion that officials were also involved. Though such a committee was constituted, the same did not proceed further in the matter and allowed to lie in dark. The lands to which the eleventh respondent was granted permission to enter upon by G.O.Ms.No.978 Revenue (L1) Department, dated 31.05.1988 have been classified as follows:-

S.No.	Survey No. & Total Extent	Classification	Extent Allotted	Remarks
1.	439/3A1A1B 16.85 acres	Stony Ground	16.85 acres	Government have given permission to enter upon in this land vide G.O.Ms.No.978/Revenue Dept. Dated 31.05.1988.
2	439/3A1A1A1 156.89 acres	Grazing Ground Poramboke, Thangal Road	8.51 acres	-- do --
3	439/2 9.68 acres	Manthaveli	7.63 acres	-- do --
	Total		32.99 acres	

15.Since in the Government Order, the classification has been shown as mentioned above, the eleventh respondent addressed the District Collector, Kancheepuram to probe into the aspect as to how patta could have been granted to private parties. The

petitioners challenged the proceedings of the District Collector dated 13.06.2014 by filing a writ petition in W.P.No.16396 of 2014, but was not successful in setting aside the order and the Court held that the petitioner cannot be aggrieved by such an order. The operative portion of the order reads as follows:-

"4.At the out set, it is made clear that the petitioner has not made the Tamil Nadu Cooperative Milk Producers Federation Limited as a party in this writ petition. Further, the impugned order is only formation of a team consisting of four members to go into the question how the patta has been granted to the petitioner and the petitioner cannot become an aggrieved person at this point of time and therefore, it cannot be held that the committee constituted is wrong and the petitioner can only seek the relief of notice before passing any order. They should not recommend any opinion to the Collector before giving notice to the petitioner. Therefore, this Court is of the view that the Committee before conducting the enquiry shall put on notice to the petitioner because he holds patta and that alone will keep him safe. The Collector who is the competent authority, should find and verify whether the patta granted is given by the Government and he shall give notice to the petitioner before enquiring the same and before passing any orders."

16.It is not clear as to why the probe committee constituted did not proceed further with the matter. The question would be whether the Court should draw adverse inference as to why the probe committee did not proceed further probably with a view to protect a few people who were holding various responsible official positions or that any person who is very influential was behind the same. However, without any records, the Court cannot make any positive observations in this regard.

17.Be that as it may, this Court is of the considered view that a thorough probe should be made into the matter, all the records should be verified in a proper manner by deputing a Special Officer to take charge of the matter and after notice to the petitioners, the probe should be conducted and the outcome be recorded by passing a speaking order.

18.For all the above reasons, while declining to grant the relief sought for, this Court dismisses the writ petition with a direction to the first respondent, Principal Secretary, Land Administration, Chennai, to nominate an officer, who is well versed with the revenue matters of impeccable character and integrity and good reputation, coupled with efficiency to be a

single member probe committee. All records shall stand transferred from the various Collectorates and the Tahsildar Offices to the said one man committee, who shall study the matter, issue notice to all concerned, including the petitioners and conduct a thorough probe and pass a speaking order on merits and in accordance with law. Based on such order, the District Collector, Kancheepuram, shall make necessary entries in the revenue records. The above direction be complied with within a period of three months from the date of receipt of a copy of this order.

19. With the above observation and direction, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

abr
To

1. The Principal Secretary,
Land Administration,
Elilagam, Chempauk,
Chennai-600 005.
2. The District Collector,
Kancheepuram District,
Kancheepuram.
3. The District Revenue Officer,
The District Revenue Office,
Kancheepuram District,
Kancheepuram.
4. The Revenue Divisional Officer,
Tambaram Division,
Tambaram, Chennai-600 044.
5. The Tahsildar,
Sholinganallur Taluk,
Sholinganallur, Chennai-600 119.
6. The Revenue Inspector,
Sholinganallur, Chennai-600 119.

7.The Village Administrative Officer,
Sholinganallur Village,
Sholinganallur, Chennai-600 119.

8.The Inspector of Police,
Teacm-XVIII, Central Crime Branch,
Chennai-600 007.

9.The Inspector of Police,
J-10, Semenchery Police Station,
Sholinganallur, Chennai-600 119.

10.The Sub-Registrar,
Neelangarai,
Office of the Sub-Registrar,
Neelangarai, Chennai-600 041.

11.The Managing Director,
Tamil Nadu Cooperative Milk Producers
Federation Ltd.,
Aavin Illam, Chennai-600 051.

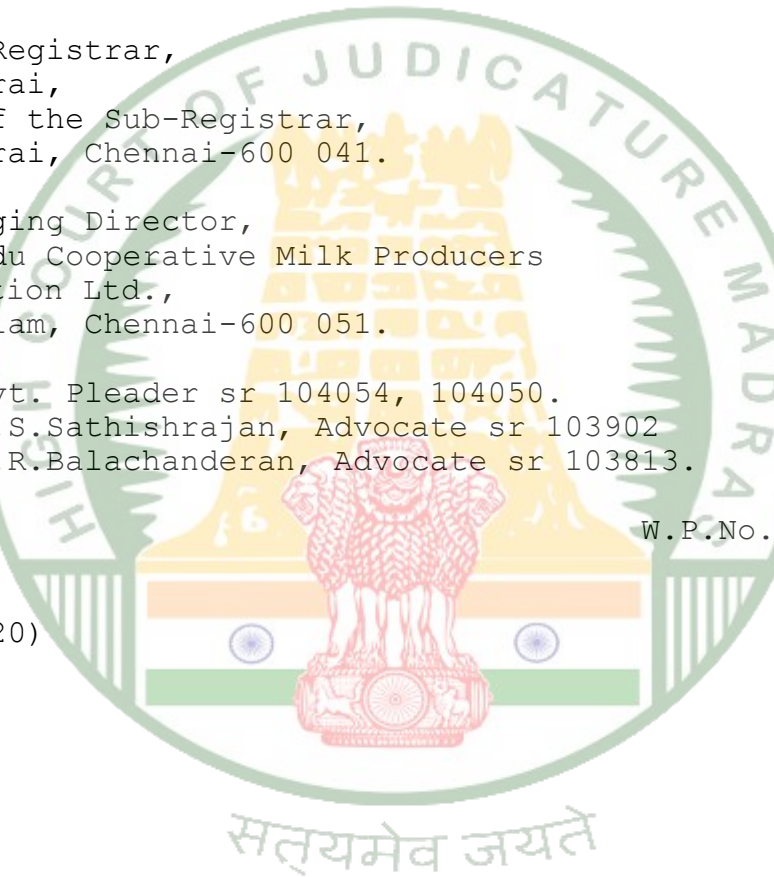
+1 CC to Govt. Pleader sr 104054, 104050.

+1 CC to Mr.S.Sathishrajan, Advocate sr 103902

+1 CC to Mr.R.Balachanderan, Advocate sr 103813.

W.P.No.21569 of 2017

GMR (CO)
SP(24/01/2020)



सत्यमेव जयते

WEB COPY