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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

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THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33709 of 2019
and W.M.P.Nos.34173 to 34176 of 2019

1.K.Sudhakar
2.K.Amaresan

...Petitioners

Vs.

- 1.The District Collector,
Kanchipuram District,
Kanchipuram.
- 2.The Special Tahsildar,
Land Acquisition,
I.T. Expressway Scheme,
Tambaram Taluk Office Building,
Chennai - 600 047.
- 3.The Revenue Divisional Officer,
Chengalpattu,
Chengalpattu District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 1st respondent in Na.Ka.No.8186/2008/F1 dated 09.10.2018 and to quash the same and issue direction to forbear the respondent from evicting the petitioners from the property at Old Survey No.276/7 part and New Survey No.645/37 in Padur Village, Thiruporur Taluk, Kanchipuram District to an extent of 10 cents with building till the respondents pay compensation to the petitioner for acquiring the property at the prevailing rate.

For Petitioners : Mr.K.Raja
For Respondents : Mr.D.Raja
Additional Government Pleader

O R D E R

Heard Mr.K.Raja, learned counsel for the petitioner and Mr.D.Raja, learned Additional Government Pleader for the



respondents. With the consent on either side, the writ petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed questioning the order passed by the first respondent, District Collector, Kanchipuram District dated 09.10.2018 and for the consequential direction to forbear the respondents from evicting the petitioners from the property in question till they are paid adequate compensation as the lands are acquired for public purpose.

3.The petitioners claim patta to be granted in their favour on the ground that the classification of the land is Gramma Natham. The petitioners had approached this Court earlier by filing a writ petition in W.P.No.7517 of 2017, wherein they sought for issuance of Writ of Mandamus to forbear the respondents from evicting them from the land in question and direct payment of compensation at the rate of Rs.5000/- per sq.ft. in respect of the property which was the subject matter of the land acquisition proceedings. In fact, the second limb of the prayer in the present writ petition is identical to that of the prayer in the earlier writ petition. The said writ petition along with other connected matters were disposed of by a common order dated 15.06.2017 in which a direction was issued to the respondents therein to determine the compensation by treating the lands in possession of the petitioners as private lands. The respondents challenged the said order by filing writ appeals in W.A.Nos.290 to 292 of 2018. The appeals were disposed by a common judgment dated 26.03.2018 issuing direction to the District Collector to consider the entire documents produced by the writ petitioners and take a decision one way or the other. The District Collector has taken a decision on 09.10.2018 which is impugned in this writ petition and has also issued further direction to the Revenue Divisional Officer, the third respondent herein, who in turn has issued notice dated 20.05.2019 for conducting enquiry and called upon the petitioners to produce the documents.

4.The larger question that needs to be noted is that whether the petitioners can claim as a matter of right that they are entitled for grant of patta on the ground that they are in possession of the land classified as Gramma Natham. On a reading of the order passed in W.P.No.7517 of 2017, one gets an impression that the Court issued a direction on the ground that the writ petitioners were in possession and enjoyment of the land which is classified as Gramma Natham for several decades. But the fact remains that the petitioners have purchased the property by a registered sale deed dated 02.03.2007 registered as Document No.2199/2007 on the file of the Sub Registrar, Thiruporur. The question would be whether the vendor of the petitioners had the right to sell the property. It appears that



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this fact was not placed by the respondents when the writ petition was disposed of nor it is clear whether the same was placed before the Hon'ble Division Bench which disposed of the appeals by judgment dated 26.03.2018. In any event, this is a very relevant factor which should be noted by the authorities while considering the claim. Since the authorities are acting pursuant to the direction issued by the Hon'ble Division Bench which had directed the authorities to take a decision one way or the other, this Court is not interdicting such process as it would not be entitled to interdict which is pursuant to the judgment of the Hon'ble Division Bench. In my considered view, the petitioners cannot be stated to be aggrieved by the order passed by the District Collector dated 09.10.2018 because of the fact that further enquiry has been directed to be conducted by the Revenue Divisional Officer.

5.The learned counsel for the petitioners placed reliance on the decision of the Hon'ble Division Bench of this Court in the case of Dharmapura Adhinam Mutt rep. by its Adhinakartha vs. Raghavan and another [CDJ 2011 MHC 5519]. This decision is referred to buttress the submission that if a land is classified as Gramma Natham, the provisions of the Tamil Nadu Land Encroachment Act, 1905 cannot be invoked. There can be no dispute with regard to the said legal position. However, the question has to be whether in what manner the decision will assist the case of the petitioners when admittedly, the petitioner is a purchaser of a property stated to be classified as Gramma Natham from a person who was not granted a Gramma Natham patta. Furthermore, the purchase is of the year 2007. These issues to be considered by the second respondent in the enquiry which he proposes to conduct.

6.In the light of the above, the writ petition is dismissed. However, the third respondent is directed to take note of the above observations and take a final decision in the matter strictly in accordance with law within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy//

Sub Assistant Registrar

cse



To

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The Special Tahsildar,
Land Acquisition,
I.T. Expressway Scheme,
Tambaram Taluk Office Building,
Chennai - 600 047.

3.The Revenue Divisional Officer,
Chengalpattu,
Chengalpattu District.

+1cc to Mr.K.Raja, Advocate, SR.No.100549.

+1cc to Government Pleader, SR.No.101174.

W.P.No.33709 of 2019
and W.M.P.Nos.34173 to 34176 of 2019

KK(CO)
CSR:20/01/2020