

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.12.2019

Coram :

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No. 28654 of 2014

1.K.Kannaiyan
2.P.Chitra
3.L.Mariammal
4.L.Tirupathi
5.V.Chanthra
6.S.Rani

...Petitioners

Vs

1.The District Collector, Salem
District, Salem.

2.The Special Tahsildar, Adi
Dravidar Welfare, Salem.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the respondents vide Na.Ka.No.27777/ 2010/D.10 dated 04.11.2013 vide Na.Ka.No.524/2010/A dated 28.10.2013, quash the same and consequently direct the respondents to issue patta by restoring possession in a new constructed house to the petitioners in respect of their resident situate at Government Poromboke land in Ward H Block 302A/Ward AA Block 27/29/A5 Division No.47 in T.S.No.91 at Ramalinga Koil First Street, Gugai, Salem District (prayer amended as per order dated 07.11.2019 made in WMP.No.31679 of 2019 in WP.No.28654 of 2014).

For Petitioners : Mr.M.Pari

For Respondents : Mr.N.Srinivasan,
Additional Government Pleader

ORDER

The amended prayer in this writ petition is to quash the proceedings of the first respondent dated 04.11.2013 and the earlier proceedings of the second respondent dated 28.10.2013 and direct the respondents to issue patta by restoring possession in the newly constructed house to the petitioners situate in Ward H Block 302A/Ward AA Block 27/29/A5 Division No.47 in T.S.No.91 at Ramalinga Koil First Street, Gugai, Salem District.

2. Earlier, the petitioners sought to quash the proceedings dated 28.10.2013 contending that the petitioners are residing for the past 50 years in the harijan natham land, that they are not encroachers, that such land is meant only for harijan people and that therefore, the respondents have no power to evict them. The petitioners further contended that they have no other residential house and the allegation that they own residential house is fault. It was further contended that the respondents committed an offense under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and that they were also entitled to get compensation for the demolition of houses constructed by them and for forceful dispossession.

3. When the matter was heard earlier on 30.9.2019, it appears that the learned Government Pleader produced a copy of the proceedings of the first respondent dated 04.11.2013, by which, a speaking order was passed giving reasons as to why the petitioners are not entitled to be in possession of the property and as why their request for issuance of patta cannot be granted. Therefore, the petitioners filed WMP.No.31679 of 2019 to amend the prayer in the above writ petition by challenging the proceedings of the first respondent dated 04.11.2013. The implead petition was ordered by this Court on 07.11.2019 and consequently, the prayer in the above writ petition stood amended.

4. In the impugned order dated 04.11.2013, probably there are two reasons for rejection of the petitioners' request for grant of patta. Firstly, it is stated that the lands, in which, they were in occupation, were reserved for a common purpose for adhi dravidar colony, in which, there are 82 adhi dravida people, who have been granted patta by the Government. Secondly, it is stated that three, out of the six petitioners herein, have ancestral properties, which dis-entitles them for the grant of house site patta. The details of properties stated to have been inherited by three of the petitioners were set out in a tabulated format in the impugned order dated 04.11.2013.

5. It is seen that the impugned order has been passed pursuant to a direction issued in the earlier writ petition filed by the petitioners in W.P.No. 16082 of 2011 dated 06.7.2011 wherein a direction was issued to consider the representation given by the petitioners dated 13.6.2011 and to pass a speaking order, pursuant to which, a speaking order was passed, which is impugned in the above writ petition. In the impugned order, there is a reference to a report of the Special Tahsildar dated 28.10.2013. The impugned order has been passed

based on such report given by the Special Tahsildar, Adi Dravidar Welfare, Salem, which appears to have been the basis for rejecting the petitioner's request.

6. This Court finds that neither the copy of the report of the Special Tahsildar dated 28.10.2013 was furnished to the petitioners nor the petitioners were put on notice prior to passing the impugned order especially when the first respondent stated that three of the writ petitioners have ancestral properties and therefore, it would dis-entitle them for grant of house site patta. Therefore, to this extent, this Court is of the view that there has been a violation of the principles of natural justice. The petitioners ought to have been afforded an opportunity to put forth their case and more particularly when the report of the Special Tahsildar dated 28.10.2013 has been referred to and relied upon by the first respondent while passing the impugned order.

7. In the light of the above, the writ petition is disposed by directing the second respondent to furnish a copy of the report of the Special Tahsildar, Adi Dravida Welfare, Salem in Na.Ka.No.524/2010/A dated 28.10.2013 to the petitioners within a period of ten days from the date of receipt of a copy of this order. On receipt of the copy of the said proceedings/ report, the petitioners are directed to treat the impugned proceedings of the first respondent dated 04.11.2013 as a show cause notice and submit their objections within a period of 15 days from the date of receipt of a copy of the report dated 28.10.2013 and also substantiate their case as to how they contend that they do not own any residential property nor do they inherit any property from their ancestors. On receipt of the objections, the second respondent shall consider the same on merits and pass appropriate orders in accordance with law. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//सत्यमेव जयते

Sub Assistant Registrar

To

- 1.The District Collector, Salem District, Salem.
- 2.The Special Tahsildar, Adi Dravidar Welfare, Salem.

+1 cc to The Government Pleader Sr.No. 102979

AKM/21.01.2020/3P-4C /

W.P.No.28654 of 2014