



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.03.2019
Delivered on : 22.03.2019

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CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.[MD]Nos.11279 of 2015 and 22496 of 2018

W.P.[MD]No.11279 of 2015:

Shanmugavel

: Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. Chandran,
Deputy Tahsildar,
Ambasamudram Taluk,
Ambasamudram,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to take action and departmental proceedings against the second respondent based on the petitioner's representation dated 18.08.2014.

For Petitioner : Mr.T.Selvan

For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader

W.P.[MD]No.22496 of 2018:

Ravikumar

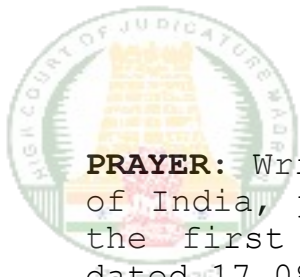
: Petitioner

Vs.

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

: Respondents



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 17.08.2018 and to pass orders within a time stipulated by this Court.

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For Petitioner : Mr.V.Sasikumar
For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader

COMMON ORDER

W.P. (MD) No.11279 of 2015:

The prayer of the petitioner is to direct the first respondent to take action and departmental proceedings against the second respondent based on his representation dated 18.08.2014.

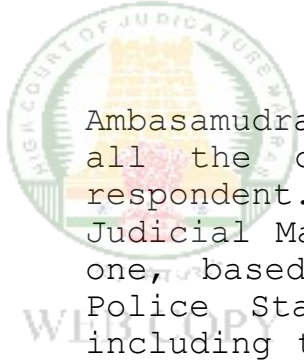
2. The case of the petitioner, in a nutshell, is as follows:

(i) The land and rice mill building in Survey No.293/1A bearing Door No.23D situated at Melaseval Village, Ambasamudram Taluk, Tirunelveli District belongs to one P.Selva Ganapathy. The said property was purchased by the petitioner's brother by name Muppidathy Thevar in the name of his wife Vasanthi through a registered sale deed dated 18.10.2007. Since she purchased the said property along with other property of house site situated at Narasinganallur Village, the sale deed was registered in the Pettai Sub Registrar's Office vide Document No.68/2008 and thereafter, the Melaseval rice mill building was registered at Cheranmahadevi Sub-Registrar's office. Since his brother is residing at Mumbai, the petitioner is maintaining the said property.

(ii) Seeking to change the patta in respect of the property in the name of Vasanthi, the petitioner applied before the first respondent on 26.08.2010, for which, the first respondent replied that the said petition was forwarded to the Sub-Collector, Cheranmahadevi for taking steps. When the petitioner contacted the Sub Collector's office, it was informed that the same was forwarded to the Tahsildar, Taluk Office, Ambasamudram and thereafter, to the second respondent, who was in-charge at that time.

(iii) When the petitioner approached the second respondent, he demanded Rs.10,000/- for expenses, which he has not paid initially and subsequently paid and on payment, the second respondent provided Natham Nilavari Thitta Thooya Adangal and order copy for the same on 22.12.2010.

(iv) The vendor of the petitioner's brother's wife, in order to grab the property already sold, created sale agreement in favour of one Pandi and three others and filed a suit before the Sub Court,



Ambasamudram. In the said suit, all of them appeared and produced all the documents including the patta granted by the second respondent. The said Pandi gave a complaint before the learned Judicial Magistrate, Ambasamudram, stating that the patta is forged one, based on which, a case was registered by the Ambasamudram Police Station in Crime No.182 of 2014 arraying all of them including the second respondent as accused. Thereafter, on enquiry, it came to know that the second respondent created forged patta and gave a forged order to the petitioner. The second respondent, in his order, stated that the new survey number for the petitioner S.No.293/1A is 775 and assigned patta No.818 for the same. But, whereas, as per the revenue records, patta No.818 pertaining to S.No.775 belongs to some other person. Knowing full well about the patta belonging to some other person, with a view to grab money, the second respondent issued a forged patta to the petitioner's brother's wife.

(v) Even after filing of FIR against the second respondent, the first respondent has not initiated any departmental proceedings against him. Thereafter, the petitioner gave a representation dated 18.08.2014 to the first respondent seeking departmental action against the second respondent. But, no fruitful result is forthcoming till date. Therefore, the petitioner has filed the present Writ Petition for the reliefs as stated above.

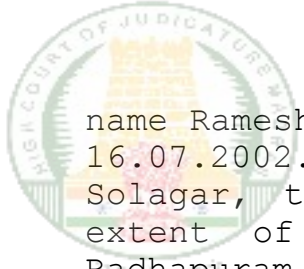
3. Though the Writ Petition is of the year 2015, so far, no counter-affidavit is forthcoming from the respondents.

4. The learned counsel for the petitioner submits that originally the property in question was purchased by the petitioner's brother and thereafter, it was transferred in the name of his sister-in-law. The petitioner also got patta for the said property. However, when the vendor of the petitioner's brother's wife took steps to sell the very same property to others and created a sale agreement and the suit was initiated, the petitioner came to know about the issuance of fraudulent patta by the second respondent. The second respondent for want of money created a forged patta and also issued order to that effect. There is no necessity for the petitioner to create patta for the said property after purchasing the same vide sale deed. Despite giving representation to take departmental action against the second respondent, the first respondent has not taken any action so far. Therefore, the petitioner seeks appropriate directions.

W.P. (MD) No.22496 of 2018:

5. The prayer of the petitioner is to direct the first respondent to consider the petitioner's representation dated 17.08.2018.

6. The property to an extent of 2 acres 59 cents in Ayan
<https://hcservices.ecourts.gov.in/hcservices/>
 Punja Survey No.1748/1 North Valliyoor Village, Radhapuram Taluk,
 Tirunelveli District belongs to the petitioner and his brother by



name Ramesh, as per registered sale deed bearing No.1150/2002, dated 16.07.2002. They purchased the property from one Ganapathy, Solagar, through his power agent namely Muthukrishnan. The total extent of Survey No.1748/1 is 2.78.5 Hectare. the Tashildar, Radhapuram issued patta No.1074. The patta was one of joint patta. When there was interference in the possession of the petitioner by one Mani and 5 others, he came to know about the issuance of forged patta and also the fact that a separate patta was issued in favour of the said Mani. Hence, he lodged a complaint before the District Crime Branch (Anti Land Grabbing Special Cell), Tirunelveli, to register a case as against the said Mani and five others. However, the case in Crime No.26 of 2017 was registered on the directions of the Special Court for Land Grabbing Cases, Tirunelveli, in Cr.M.P.No.1284 of 2017.

7. Alleging that the Tahsildar, Radhapuram and the Village Administrative Officer, without making any local inspection, issued patta in favour of Mani and others, the petitioner sent a representation to the second respondent on 01.02.2018 and finally, on 17.08.2018 to take action against the persons, who indulged in issuance of bogus patta. Since no action was taken so far, he is constrained to approach this Court by filing the present Writ Petition.

8. Though the Writ Petition is of the year 2018, till date, no counter-affidavit is forthcoming on the side of the respondents.

9. The learned counsel for the petitioner submits that the petitioner and his brother purchased the property having an extent of 2 Acres 59 Cents in Survey No.1748/1 vide registered sale deed dated 16.07.2002 from one Ganapathy, Solagar through his power agent viz., Muthukrishnan. However, joint pattas were issued for 13 persons including the petitioner and his brother. While so, one Mani and five others interfered with his possession and on enquiry, it reveals that bogus patta was issued and again, a separate patta was issued in favour of the said Mani. It is further contended that initially the complaint given by the petitioner was not given effect and thereafter, pursuant to the direction of the Trial Court, a case was registered in Crime No.26 of 2017. Even then, no action is taken against the officials concerned. When a person applied for issuance of patta, it is the duty of the concerned officials to conduct local inspection in the property in question, conduct an enquiry and thereafter, proceed with the issuance of patta in the manner known to law, however, in the case on hand, the officials concerned, without doing anything, issued bogus patta, which causes undue hardship to the petitioner. Though a representation was given in this regard, the same is also ended in vain. Therefore, he prays for appropriate directions.

10. The learned Special Government Pleader appearing for the respondents in both the Writ Petitions, on instructions, would fairly submit that appropriate action would be taken against the



erring officials for the lapses committed.

11. I have considered the submissions made on either side and perused the materials available on record carefully.

12. The issue centering around both the Writ Petitions relates to the issuance of bogus pattas without proper inspection and enquiry.

13. Admittedly, both the petitioners purchased the property vide registered sale deeds and also got pattas in their favour. When third parties interfered, they came to know about the issuance of bogus pattas by the officials concerned. The petitioners made complaints against the concerned, but, they have been made to run from pillar to post to get their grievances redressed. Even then, the representations given to take action against the officials concerned were also not yet considered from 2015 and 2018 respectively, resulting in filing of the present Writ Petitions.

14. In a matter of this nature, when a person applied for issuance of patta, a duty is cast upon the concerned officials to inspect the property for which the patta is applied and after conducting thorough enquiry, patta can be issued. But, in the cases at hand, without conducting any enquiry and without conducting local inspection in the properties in question, pattas were issued to the persons without verifying as to who is the real owner.

15. It is not the one case relating to issuance of patta, many cases arising out of bogus pattas are pending without seeing the light of the day. The failure on the part of the concerned officials in not making proper inspection while issuing patta made the innocent people to run from pillar to post seeking justice delivery system either knocking the doors of this Court under Article 226 of the Constitution of India or the authorities concerned. However, they do not get any justice forthwith.

16. In view of the above stated position, this case should be an eye opener to the officials concerned who involved in issuing such bogus pattas. Therefore, while concluding the cases, I would like to issue some guidelines to the Government.

17. The Government should examine the issue in detail and collect all the complaints pending disposal on same line. If any of the complaints with proper documents establish the crime of issuing bogus pattas, immediate action against the concerned officials be taken by placing under suspension, following the departmental proceedings. Necessary circular, in this regard, should also be issued by all the District Collectors, so as to ensure that such kind of issuance of bogus pattas does not repeat in future, to the concerned departments. It is also made clear that if any bogus patta is issued, necessary action must be taken against the erring officials.



18. Now, coming to the cases at hand, in view of the submission made by the learned Special Government Pleader appearing for the respondents, the first respondent herein is directed to conduct proper enquiry on the basis of the representations made by the petitioners dated 18.08.2014 and 17.08.2018 respectively and on enquiry, it reveals that if any lapses is committed, appropriate action be taken against the erring officials on merits and in accordance with law. Such an exercise shall be carried out, within a period of six weeks from the date of receipt of a copy of this order.

19. The Writ Petitions stand disposed of in the above terms. No costs.

20. Post the Writ Petitions on 03.07.2019 '**for reporting compliance**'.

Sd/-
Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. Chandran,
The Deputy Tahsildar,
Ambasamudram Taluk,
Ambasamudram,
Tirunelveli District.
3. The Sub Collector,
Cheranmahadevi,
Tirunelveli District.

Copy to:

1. The Registrar General,
High Court,
Madras - 600 104.
2. The Additional Registrar General,
Madurai Bench of Madras High Court,
Madurai.

3. The Section Officer,
Writ Section (Posting),
High Court, Chennai.

<https://hcservices.ecourts.gov.in/hcservices/>

(Post the matter on 03/07/2019) for reporting compliance)



4. The Section Officer,
"F" Section,
Madurai Bench of Madras High Court,
Madurai.

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+1 CC to M/s.T.SELVAN, Advocate (SR-56529[F] dated 26/03/2019)
+1 CC to M/s.SPL GP (SR-56280 & 56322[F] dated 25/03/2019)

SML

KK/SAR/28.06.2019/7P-10C

Common Order made in
W.P.[MD]Nos.11279 of 2015 and 22496 of 2018
Delivered on: 22.03.2019