



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.11.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P. (MD) No. 23928 of 2019

WEB COPY

Kasthuri Bai

... Petitioner

Vs.

1.The District Collector,
O/o District Collector,
Dindigul, Dindigul District.

2.The District Revenue Officer(DRO),
O/o the District Revenue Officer,
Dindigul, Dindigul District.

3.The Revenue Divisional Officer(RDO),
O/o Revenue Divisional Officer,
Kodaikanal, Dindigul District.

4.The Tahsildar,
O/o the Tahsildar,
Kodaikanal, Dindigul District.

5.The Village Administrative Officer(VAO),
O/o the Village Administrative Officer,
Kodaikanal Municipality,
Kodaikanal Municipality,
Dindigul District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 to 5 on the basis of petitioner's representation dated 06.08.2019 and to implement the order in Na.Ka.(A1)2955/2012, dated 20.06.2012 on the file of the Assistant Land Tax Scheme Officer(South), Chennai to the fourth respondent regarding issuance of patta in favour of petitioner's land comprised in S.No.150/3 with an extent of 5 acres, 14 cents Kodaikanal situated at Kodaikanal Municipality, Dindigul, Dindigul District.

For Petitioner	: Mr.R.Sundar
For Respondents	: Mr.Aayiram K.Selvakumar Additional Government Pleader

ORDER

Mr.R.Sundar, learned Counsel on record for writ petitioner and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader for all five respondents are before this Court.



2. With consent of learned Counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

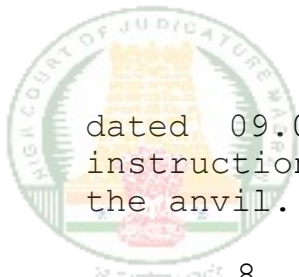
3. Subject matter of instant writ petition is 'land admeasuring 5 acres 14 cents or thereabouts in Survey No.150/3 in erstwhile Kodaikanal village, Kodaikanal Taluk, Dindigul District, which is now within Kodaikanal Municipality' (hereinafter 'said land' for brevity).

4. It is the case of the writ petitioner that her father was permitted temporary occupation for cultivation of food crops and agricultural purposes. In this regard, learned Counsel for writ petitioner relies on a document dated 01.07.1943, which according to the writ petitioner is a assignment patta.

5. A careful perusal of aforementioned document reveals that it is only an order of grant qua said land for temporary occupation for cultivation of food crops ie., agricultural purposes. More importantly it is for a specified period from 01.07.1943, but the period portion is smudged and the exact period is not clear in the photocopy of the document placed before this Court. In any event, it is not writ petitioner's case that the period is subsisting.

6. Under the aforesaid circumstances, it is submitted that post demise of writ petitioner's father, writ petitioner has been in occupation of said land and has been in possession. It is the case of the writ petitioner that she had planted fruit bearing trees in the said land. It also comes to light from the case file that the writ petitioner's father one Chelladurai, son of Annugraham died on 02.11.1977, leaving behind writ petitioner and three other legal heirs. Three other legal heirs are the writ petitioner's sisters. This is evident from the legal heir certificate dated 05.12.2011 placed before this Court. Considering the scope of instant writ petition, it may not be necessary to dilate further on these facts.

7. Learned State Counsel had the revenue records ready and Revenue Inspector from the office of the fourth respondent and fifth respondent were present Court instructing him. From the revenue records and files produced before this Court, more particularly, the 'A' Register, it comes to light that the said land has been classified as 'தீர்வு, ஏற்பட்ட தரிகை'. Further learned State Counsel drew the attention of this Court to State file wherein the Additional Chief Secretary / Commissioner of Land Administration, Chennai vide proceedings bearing Reference E2/24739/2002, has directed Revenue Officials to take immediate steps to evict encroachments *inter alia* in poromboke lands these proceedings in turn are pursuant to orders passed by this Honourable Court, particularly in W.P. (MD) Nos.30687 and 30688 of 2005 being order



dated 09.01.2019. In this regard, learned State Counsel, on instructions submits that removal of encroachment proceedings is in the anvil.

8. This Court has carefully considered the case file and records placed before this Court and also the submissions of learned Counsel on both sides.

9. A perusal of 01.07.1943 permission for temporary occupation makes it clear that the writ petitioner's father was not even given the rights to cut the wind uprooted trees without prior permission of the Collector and even the fallen trees will have to be handed over to the village head. With regard to usufructs, it has been clearly set out that the same will be leased out in auction by the officers of the Government. This means that the writ petitioner's father was not even given any right with regard to usufructs. As many as 26 conditions have been adumbrated in the order permitting to temporary occupation and these provisions pertaining to usufructs are contained in conditions 13 to 16.

10. With regard to a memo dated 26.07.2015, bearing reference Na.Ka.1780/2016 issued by the fourth respondent, it only talks about possession of the writ petitioner qua said land. If the writ petitioner is in possession or occupation of Government poramboke, writ petitioner is certainly not entitled to patta which is the prayer in the instant writ petition. To be noted, State Counsel submitted that removal of encroachment proceedings is in the anvil. It is for the writ petitioner to face the same as and when it is commenced.

11. In the light of the narrative thus far, this Court is of the considered view that the writ petitioner has no legal right to seek a mandamus against the respondents for issuance of patta. Legal right to seek mandamus is a non-derogable pre-requisite. This principle was laid down by Honourable Supreme Court in **Praga Tools Corporation Vs. Imanuel and others [AIR 1969 SC 1306]**. Besides having no legal right, the petitioner is clearly in occupation of Government land.

12. Owing to all aforesaid facts, instant Writ Petition is dismissed as bereft of merits. There shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)



To

- 1.The District Collector,
O/o District Collector,
Dindigul, Dindigul District.
- 2.The District Revenue Officer (DRO),
O/o the District Revenue Officer,
Dindigul, Dindigul District.
- 3.The Revenue Divisional Officer (RDO),
O/o Revenue Divisional Officer,
Kodaikanal,
Dindigul District.
- 4.The Tahsildar,
O/o the Tahsildar,
Kodaikanal,
Dindigul District.
- 5.The Village Administrative Officer (VAO),
O/o the Village Administrative Officer,
Kodaikanal Municipality,
Kodaikanal Municipality,
Dindigul District.

+1CC TO MR.R.SUNDAR, Advocate Sr. No. 98723
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 98411

W.P. (MD) No. 23928 of 2019
13.11.2019

SGS (CO)
TR (04.12.2019) 4P 7C