

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11449 of 2013

1.K.A.Duraivenkata Raja

2.D.Sureshkrishna

.. Petitioners

-vs-

1. The Principal Secretary and
Commissioner of Land Administration,
Chepauk, Chennai-600 005.

2. The District Collector,
Virudhunagar District,
Virudhunagar.

3. The Assistant Director,
(Survey and Land Records),
Virudhunagar.

4. The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.

5. The Principal Chief Conservator of Forests,
No.1, Jennis Road, Panagal Building,
Saidapet, Chennai-600 015.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the first respondent in Rc.M2/33591/11 dated 25.10.2012, quash the same and consequently direct the second respondent to initiate proper proceedings in regard to ascertain the compensation in the wake of surrendering the lands, as forwarded by the District Revenue Officer, in the letter Na.M.AA.1/235/2008 dated 16.06.2008.

For Petitioners : Ms.AL.Gandhimathi

For Respondents : R1 to 4 - Ms.A.Sri Jayanthi,
Special Government Pleader

: R5 - Mr.M.Elumalai,
Government Advocate

ORDER

This writ petition has been filed to quash the order passed by the first respondent dated 25.10.2012. This order came to be passed on a petition filed by the writ petitioners challenging the decision of the District Collector dated 18.07.2009, rejecting the petitioners' request for acquiring the lands in possession of the petitioners through private negotiation. The first respondent, by the impugned order, has rejected the claim made by the petitioners and dismissed the claim. Challenging the same, the petitioners are before this Court.

2. Ms. AL. Gandhimathi, learned counsel appearing for the petitioners contended that the lands were originally patta lands of one Tmt. Krishnammal, predecessor in title to the petitioners. The said predecessor in title had submitted an application under Section 11(a) of Act XXVI of 1948 for grant of ryotwari patta. However, the same was rejected. At that point of time, the petitioners moved the Settlement Officer, Madurai by filing an application stating that they should be granted patta on the ground that they are continuing to be in possession of the land, cultivating crops, built houses, etc. The Settlement Officer, after taking note of these aspects, held that already the request for ryotwari patta, at the instance of the predecessor in title, Tmt. Krishnammal having been rejected, once again the question of granting ryotwari patta cannot arise, but taking note of the fact that they were in possession, held that they shall be continued to remain in possession of the lands subject to certain conditions. Armed with this order, the petitioners claimed that they are continued to be in possession of the lands and thereafter, they have approached the Forest Department requesting to take over the lands by private negotiation. This claim was made by taking advantage of the fact that there is an entry made in the register showing that the lands are dry/patta lands effected during updating registry system. When this request was made, the matter was referred to the District Collector, who after thorough enquiry, found that the change of classification of lands from Government Poramboke to dry and patta in the names of the individual/petitioner was wholly without jurisdiction and it was beyond the scope of Updating Registry Scheme (UDR) which was introduced in the State only to update the registry and the land classification cannot be changed. Taking note of these facts, the first respondent has rejected the petitioners' claim stating that the petitioners, at best, can have only usufructory right and there can be no claim for compensation because, they do not have any alienable right over the said lands.

3. The learned counsel for the petitioners before this Court made a submission that the claim made by the petitioners is not

based upon any patta or entry under the UDR Scheme, but it is by virtue of the benefit granted by the Settlement Officer, vide order dated 17.01.1972 extending the benefit of Section 19A of Act XXVI of 1948.

4. In the considered view of this Court, the argument now made before this Court is different from what was the claim made by the petitioners before the authorities including the first respondent. The petitioners took advantage of the fact that the patta was granted and the classification of land was changed from Government Poramboke to dry patta and that is the reason they claimed that they should be paid compensation by entering into private negotiation.

5. The facts placed before this Court by way of counter affidavit filed by the fifth respondent as well as by the fourth respondent clearly show that the revenue officials have colluded in making certain entries in the revenue records, but for which the petitioners could not have made such a claim. The argument placed on the order passed under Section 19A cannot improve the case of the petitioners. The order does not confer any alienable interest in the land in question and no person has got any vested right to state that he will be continued to be in possession of the Government land and if he is to be dispossessed, then he has to be paid compensation.

6. All the arguments now placed before this Court are to be summarily rejected. Had the matter not been referred to the District Collector, the illegality committed would not have been come to light and in all probabilities, the compensation which was recommended by the Tahsildar at Rs.36,00,000/- would have even be paid to the petitioners. Thus, the facts clearly stare against the case of the petitioners and the petitioners have absolutely no semblance to seek for any compensation.

7. Furthermore, in the impugned order, the first respondent has stated that the Zonal Deputy Tahsildar and the Village Administrative Officer concerned, who appeared for the enquiry have stated that no one can enter into the lands and the lands are covered by thick vegetation and frequently by wild animals and it is impossible to identify the lands. Further, Settlement A Register was produced, which clearly shows that the lands in question are classified as Reserved Forest and the mistake/mischief occurred at the time of updating registry scheme by including the names of the petitioner in the patta. If any action which has been done without jurisdiction and based upon any illegality, the same cannot confer any right, much less any right on the petitioners before this Court.

8.Thus, for the above reasons, this Court finds that there is no error in the order passed by the first respondent. Accordingly, the writ petition fails and the same stands dismissed. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

abr
To

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+1 CC to Govt. Pleader sr 1001.
+1 CC to The Spl. Govt. Pleader sr 572.
+1 CC to Mrs.A.L. Gandhimathi, Advocate sr 891.

W.P.No.11449 of 2013

PA(CO)
SP(17/02/2020)