

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 31-08-2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.11692 of 2020
and WMP No.14358 to 14360 of 2020

Gmmco Limited

... Petitioner

Vs

1.The Sub-Collector,
Tiruvallur,
Tiruvallur District.

2.The District Revenue Officer,
Tiruvallur,
Tiruvallur District.

3.The Tahsildar,
Tiruvallur,
Tiruvallur District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent comprised in his communication bearing Na.Ka.1591/2019/A6, dated 06.09.2019, and quash the same as illegal arbitrary and contrary to the settled legal position in respect of Grama Natham lands in Tamil Nadu and consequently direct the respondent to issue necessary patta in favour of the petitioner lands of a total extent of 0.44.0 Hectares comprised in S.Nos.11/4,12/3,12/4 and 12/5 in Koppur village, Tiruvallur Taluk and District as requested by the petitioner in its representation, dated 05.09.2019, addressed to the first respondent.

For Petitioner : Mr.Rahul Balaji

For Respondents : Mr.V.Jayaprakash Narayanan,
Govt. Pleader.

ORDER

This Writ Petition has been filed, challenging the impugned communication issued by the first respondent, dated 06.09.2019, and for a consequential direction to issue patta in favour of the petitioner for the subject property.

2. The case of the petitioner is that they acquired certain vacant lands under three registered sale deeds, all dated 27.12.2010. Thereafter, the petitioner, after obtaining necessary permission, constructed a workshop and a warehouse in the property. The further case of the petitioner is that patta was also granted in favour of the petitioner in patta number 1537.

3. Out of the larger extent of property purchased by the petitioner, an extent of 1.11 acres, comprised in S.Nos.11/4,12/3,12/4 and 12/5 in Koppur Village is classified as Grama Natham in revenue records. These survey numbers are surrounded by patta lands belonging to the petitioner. The petitioner approached the revenue authority and requested for grant of patta for the said property. The petitioner also offered to exchange some of the patta lands in lieu of the said lands to an extent of 0.94 acre. The District Revenue Officer, Tiruvallur, also addressed a letter to the Tahsildar, Tiruvallur on 05.10.2018, and directed to consider the representation made by the petitioner.

4. As a subsequent development, a notice came to be issued against the petitioner company under the Land Encroachment Act, on the ground that the petitioner has encroached upon the Government land in Survey Nos.12/3,12/4 and 12/5. The petitioner also gave a reply for the said notice. The specific case of the petitioner is that till-date, no action has been taken after the reply was submitted by the petitioner.

5. The petitioner made a fresh representation to the first respondent on 05.09.2019 seeking for patta for Survey Nos.11/4,12/3,12/4 and 12/5. This representation made by the petitioner was rejected by the first respondent through the impugned letter, dated 06.09.2019, on the ground that the said lands are categorised in the revenue records as Natham Poramboke. Aggrieved by the same, the petitioner has filed this Writ Petition before this Court.

6. Mr.Rahul Balaji, learned counsel for the petitioner, submitted that the first respondent has issued the impugned communication without affording an opportunity to the petitioner. He further submitted that the subject lands have been specifically categorised as Grama Natham in the revenue records and, therefore, the first respondent was not right in rejecting the claim made by the petitioner, stating that the lands are categorised as Natham Poramboke. The learned counsel

also submitted that in a line of judgments passed by this Court, this Court has consistently held that Grama Natham land will never vest with the Government and it is not a Government property. He further submitted that the title to the property vests with the occupier of the land and the occupier cannot be treated to be an encroacher and as a consequence of the same, the very action taken by the respondents to invoke the Land Encroachment Act is without jurisdiction.

7. Learned counsel for the petitioner further submitted that the earlier approach of the authority was in favour of granting patta to the petitioner and that is the reason why some deliberation went on for even exchange of some of the patta lands belonging to the petitioner in lieu of the lands of the petitioner in Survey Nos.12/3,12/4 and 12/5. Therefore, according to the learned counsel, the first respondent has acted in haste and the matter has to be remanded to the first respondent to enable the petitioner to put forth their contentions and thereafter it can be dealt with by the first respondent in accordance with law.

8. Per contra, Mr.V.Jayaprakash Narayanan, learned Government Pleader, appearing for the respondents, submitted that the Settlement Register reveals the fact that the lands in Survey Nos.11/4,12/3,12/4 and 12/5 are falling under the category of Sarkar Poramboke. The learned Government Pleader further submitted that there are two types of Grama Natham lands viz., one under the occupation of a private person and the other under the occupation of the Government. The lands, which are under the occupation of the Government, are treated to be Sarkar Poramboke and no patta can be granted with respect to these lands. Accordingly, he submitted that there was no illegality on the part of the first respondent in rejecting the request made by the petitioner since no patta can be issued to any person with regard to the property which falls under the category of Natham Poramboke. He, therefore, submitted that there are no merits in the Writ Petition and the same is liable to be dismissed.

9. This Court has carefully considered the submissions made on either side and also perused the material available on record.

10. The specific case of the petitioner is that the subject lands are falling under the category of Grama Natham even as per the Settlement Register of the year 1961 and, therefore, it cannot also be brought under the category of Poramboke lands. The petitioner company, by purchasing the property through registered sale deeds, dated 27.12.2010, has also purchased the subject land from the then occupier of the property. Therefore, the petitioner is claiming right and title over the property on the ground that they are occupying the lands and the lands are categorised as Grama Natham. The

further claim of the petitioner is that the Government does not have the right to interfere with the possession of the lands, categorised as Grama Natham.

11. The stand taken by the respondents is that the subject lands are Poramboke lands and they are under the occupation of the Government and, therefore, no patta can be issued in favour of the petitioner.

12. This Court, in a line of decisions, has taken a very consistent view that the occupier of the lands, categorised as Grama Natham, will be considered to be the owner of the property. This Court has also gone to the extent of saying that since the lands vest with the occupier, no action can be taken under the Land Encroachment Act. It was also held that no patta would be issued to Grama Natham lands. A useful reference can be made to the following decisions :

(i) 1993 (1) MLJ 472 (A.Sankaralingam v. Arunachala Reddiyar & Ors.)

(ii) 1998 (3) LW 603 (Thillaivanam A.K. v. District Collector, Chengai Anna District)

(iii) 2006 (3) LW 361 (A.R.Meenakshi v. State of Tamil Nadu)

(iv) 2012 (2) CTC 315 (State of Tamil Nadu v. Madasami)

13. Learned counsel for the petitioner submitted that there are Government Orders, which contemplate grant of Natham Patta to the occupant of the land. He further submitted that this Court has recognised the said right to receive patta in line with the Government Orders in the judgment in B.Ravi v. The Principal Secretary and Commissioner of Land Administration, reported in Manu/TN/0867/2011.

14. The property cannot possess the character of both Grama Natham and Natham Poramboke. Each category has a specific significance. In the former, the occupant is the owner of the property and in the later, the Government is the owner of the property. The petitioner is claiming that the subject lands are categorised as Grama Natham and the respondents are claiming that the said lands are categorised as Natham Poramboke. This diametrically opposite stand taken by the parties can be resolved only by a competent Civil Court, which will decide the title over the property. The title has to either vest with the petitioner or with the Government.

15. This Court does not find any purpose in remanding the matter to the first respondent in view of the specific stand taken that the lands in question are Natham Poramboke. Having taken such a stand, it will not be possible

to give a direction to issue patta in favour of the petitioner. It is yet another question as to whether the petitioner will be entitled for a patta if the lands are categorised as Grama Natham. It is made clear that this Court has not gone into the rival claims made by the petitioner and the respondents with regard to the right and title over the subject lands. Getting into the question of title will be too far-fetched for this Court, exercising its jurisdiction under Article 226 of the Constitution of India. Therefore, the order passed in this Writ Petition cannot be taken to be an expression of deciding the right and title over the subject lands of either of the parties. This Court is not entertaining the present Writ Petition only on the ground that the first respondent cannot be directed to consider the representation made by the petitioner for issuance of patta since the respondents are taking a very specific stand that the lands are categorised as Natham Poramboke. After having taken such a stand, no useful purpose will be served in remanding the matter back to the file of the first respondent.

16. In view of the above discussion, without going into the merits of the claims made by either of the parties, this Court is not inclined to remand the matter back to the file of the first respondent. The ground of opportunity in this case will become a useless formality in view of the specific stand taken by the respondents. It is always left open to the petitioner to work out their right and title over the subject property before the competent Civil Court in accordance with law.

17. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.Nos.14358 to 14360 of 2020 are closed.

Sd/-

Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1.The Sub-Collector,
Tiruvallur,
Tiruvallur District.

2.The District Revenue Officer,
Tiruvallur,
Tiruvallur District.

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3.The Tahsildar,
Tiruvallur,
Tiruvallur District.

+1cc to Government Pleader SR.No.28478

W.P.No.11692 OF 2020

VSN II(CO)
GMY(22/10/2020)



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