



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.3662 of 2017

A.Dhandayuthapani

... Petitioner

Vs.

1. The District Collector,
Theni District, Theni.
2. The Revenue Divisional Officer,
Uthamapalayam, Theni District.
3. The Tahsildar,
Uthamapalayam Taluk Office,
Uthamapalayam, Theni District.
4. The Executive Officer,
Markkaiyankottai Town Panchayat,
Markkaiyankottai, Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent herein to take steps to restore the government land in S.No.669/2B1 which was sub divided into S.No.669/2B1A & 669/2B1B in Markkaiyankottai Town Panchayat, Uthamapalayam Taluk, Theni District by considering the petitioner's representation dated 03.01.2017 on merits and in accordance with law within a stipulated period.

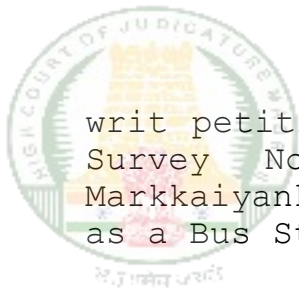
For Petitioner : Mr. K.Neelamegam

For Respondents : Mr. VR.Shanmuganathan,
Special Government Pleader
[for R1 to R3]
Mr.S.Chandrasekar [for R4]

O R D E R

[Order of the Court was made by **M.SATHYANARAYANAN, J.**]

The petitioner claims to be a resident of 11th Ward, Karnam Street, Pudupatti Village, Uthamapalayam Taluk, Theni District and he would state that he got voluntary retirement from the post of Inspector of Police and after retirement, he is doing public services for the welfare of the people and came forward to file this



writ petition as a Public Interest Litigation, alleging the land in Survey No.669/2B1 was classified as Panchayat Union land, Markkaiyankottai, bearing patta No.663 and the said land is utilized as a Bus Stand.

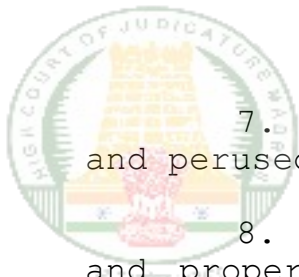
2. The petitioner would further state that part of the said land was encroached by one A.Kannan, who managed subsequently to include his name in the Government record, namely "A" Register and got it sub-divided as Survey No.669/2B1A and further managed to get a patta number 2342, in his favour. However, even after sub-division, the land in Survey No.669/2B1A, continues to stand in the name of the President, Markkaiyankottai Panchayat. The petitioner in this regard has also submitted a representation and based on which, the second respondent vide memo dated 12.01.2017 in ஓ.மு.எண் :m4/25/2017, directed the third respondent to cause enquiry and submit a report.

3. The learned counsel appearing for the petitioner would submit that despite such a positive direction, nothing has been done and left with no other option, the petitioner is constrained to approach this Court, by way of filing this Writ Petition.

4. When the matter came up for hearing on 08.07.2020, this Court has taken note of the facts and circumstances and *prima facie* found that a portion of the land belonging to the Government and in respect of the land belonging to the Government, patta has been erroneously issued in favour of a private individual by the third respondent - Tahsildar, Uthamapalayam Taluk, Theni District and therefore, directed the first respondent to cause verification as to the name of the official who issued patta in respect of the Government land in favour of the private individual and whether the said official is in service or retired and the action initiated or to be taken against the concerned official, in the form of counter affidavit with supporting documents.

5. Accordingly, the second respondent has filed the counter affidavit dated 24.07.2020, wherein, it is the mistake was committed in granting patta in favour of the private individual has been conceived and it is also admitted that the proceedings related to cancellation of patta is also kept pending for nearly three years and undertakings were also given to speed up the appeal and restore the lands back to the Panchayat, if the same has been wrongly transferred in favour of the private individual.

6. The fourth respondent has filed the counter affidavit dated 31.07.2017, wherein, it has been conceded that the assignment has been wrongly given in favour of the private person which should be reassigned to the concerned Town Panchayat.



7. This Court has carefully considered the rival submissions and perused the materials placed before it.

8. It is disturbing to note the fact that without causing due and proper verification, a portion of the land belonging to the local body was assigned in favour of the private individual and it is high time, the first respondent shall look into the same in the form of general verification and find out as to how many such kind of instances/violations took place.

9. Now, coming to the case on hand, in the light of the stand taken by the second and fourth respondents, the second respondent is directed to take immediate appropriate action in accordance with law as to the cancellation of the patta granted in favour of the private individuals by putting the private individuals on notice and pass appropriate orders on merits and in accordance with law, in respect of the appeal pending before the said official as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the concerned individual.

10. Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pkn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

To

1. The District Collector,
Theni District, Theni.
2. The Revenue Divisional Officer,
Uthamapalayam, Theni District.



3. The Tahsildar,
Uthamapalayam Taluk Office,
Uthamapalayam, Theni District.

4. The Executive Officer,
Markkaiyankottai Town Panchayat,
Markkaiyankottai, Theni District.

W.P. (MD) No. 3662 of 2017
31.07.2020

AP (13/08/2020) 4P 5C