

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.2924 of 2021
and
W.M.P.No.3273 of 2021

Joesph Santhana Augustin Raj ... Petitioner
Vs.

1.The District Collector,
Coimbatore,
Coimbatore District.

2.The District Revenue Officer,
Pollachi,
Coimbatore District.

3.The Tahsildar,
Valparai Taluk,
Coimbatore District.

4.The Commissioner,
Valparai Municipality,
Valparai,
Coimbatore District.

5.The Secretary,
The Hills Foundation Workers Union,
Valparai, Coimbatore - 642 127.

6.S.Nataraj ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent dated 7.12.2020 Na.Ka.No.25469 / 2009 /AA2 and quash the same as arbitrary and against the procedure established by law and consequently direct the 1st respondent to issue patta in respect of the petitioner property bearing Door No.249 comprised in Natham survey No. 31/37/ 6, Valparai Main Road, Valparai Taluk, Coimbatore District.

For Petitioner : Mr.R.Chandrasudan

For R1 to R4 : Mr.R.Vijayakumar

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

Additional Government Pleader

O R D E R

(Order of the Court was made by M. SATHYANARAYANAN, J.)
(Through Video Conferencing)

Heard the submissions of the learned counsel appearing for the petitioner, and Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 to 4.

2.One Mr.Kunjachan @ Joseph Gibson was a lessee in respect of the land admeasuring 0.01 acres in Valparai Survey No.31/37/6 from the year 1966 onwards, and he converted a part of the premises for commercial purposes and a part of the same for residential purposes, and before the Village Administrative Officer at Valparai, he gave an undertaking that he will close down the commercial operations.

3.The 3rd respondent, vide communication dated 09.09.1998 in Ni.Mu.1061/98/Aa2 addressed to the 2nd respondent, made a positive recommendation for grant of patta in favour of Mr.Kunjachan @ Joseph Gibson in respect of the above said land. It appears that Mr.Kunjachan @ Joseph Gibson has executed a registered sale deed, dated 12.09.2000, bearing Document No.2122 of 2000 registered on the file of the Sub-Registrar's Office, Anamalai, conveying the land and superstructure in favour of the petitioner for a sale consideration of Rs.1,26,720/-. It was also rectified vide rectification deed dated 17.10.2020.

4.The petitioner by virtue of the said sale deed, started claiming right in respect of the said land. The petitioner, after the said purchase, submitted an application for grant of patta, and since it has not been disposed of, filed W.P.No.30899 of 2013 against the respondents 1 to 4 praying for issuance of a writ of mandamus for grant of patta in respect of the property bearing Door No.249, comprised in Natham Survey No.31/37/6, Valparai Main Road, Valparai Taluk, Coimbatore District, by receiving a proposal along with village records from the 2nd respondent and give a disposal in a time bound manner. This Court, vide final orders, dated 04.08.2020, has disposed of the writ petition by granting liberty to the petitioner to submit fresh representation to the 1st respondent within a stipulated time with further direction to the 1st respondent to give a disposal in accordance with law after giving the notice to the interested parties and pass orders within a further period of 12 weeks thereafter. Accordingly, the 1st respondent, in compliance of the said order, has passed the impugned order, dated 07.12.2020, rejecting the request with further direction to remove the encroachment, and challenging the legality of the order, the present writ petition is filed.

submit that, in the light of the positive recommendation made to the vendor of the said property, namely, Mr.Kunjachan @ Joseph Gibson, who sold the said property along with superstructure in favour of the petitioner, vide registered sale deed dated 12.09.2000, the petitioner is entitled for patta and also to protect his possession, and without taking note of the relevant facts and circumstances, the 1st respondent has erroneously rejected the request with further direction to cause removal of encroachment, and prays for interference.

6.Per contra, Mr.R.Vijayakumar, learned Additional Government Pleader, appearing for the respondents 1 to 4, would submit that, since the land in occupation of the petitioner is located in an important locality, the construction put up is causing traffic hindrance, and that apart, the petitioner also possesses valuable property, and therefore, the request for patta came to be rejected rightly with consequential direction for removal of encroachment, and the same cannot be faulted with, and prays for dismissal of the writ petition.

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

8.No doubt, the predecessor who was in possession of the land along with superstructure, namely, Mr.Kunjachan @ Joseph Gibson, was granted lease of the land and a positive recommendation was also made by the 3rd respondent to grant patta in his favour. However, the said Kunjachan @ Joseph Gibson has sold the land along with superstructure in favour of the petitioner, vide registered sale deed dated 12.09.2000, and by virtue of the same, the petitioner started claiming right over the land in question assigned to him and that patta should be granted to him. The petitioner, before purchasing the said property, has failed to carry out due diligence. Even for the sake of arguments, the predecessor in respect of the said property, namely, Mr.Kunjachan @ Joseph Gibson, in whose favour recommendation was made for grant of patta, it is only recommendatory in nature, and it is open to the 1st respondent either to accept or reject the same. The 1st respondent in the impugned order has noted that the property in occupation of the petitioner is very near to Bus Stand and there are problems faced by the vehicle users and that apart, the petitioner also owns a house and that apart, is also exploiting the land in question for commercial purposes, and he is also wealthy.

9.The purpose for which assignment of land is granted is to benefit the landless, poor and needy persons. In the light of the said yardstick, it cannot be said that the petitioner is poor or landless. As already stated, the petitioner, without carrying out due diligence, has purchased the land and superstructure from the predecessor, namely,

Mr.Kunjachan @ Joseph Gibson, and in the light of the above facts and circumstances, this Court is of the considered view that there is no error apparent on the face of the record or in the reasons assigned by the 1st respondent for rejecting the request for grant of patta.

10.This Court finds no merit in this writ petition, and therefore, this writ petition is dismissed, confirming the order of the 1st respondent, dated 07.12.2020. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mkn

To

1.The District Collector,
Coimbatore,
Coimbatore District.

2.The District Revenue Officer,
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Coimbatore District.

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5.The Secretary,
The Hills Foundation Workers Union,
Valparai, Coimbatore - 642 127.

+1cc to Mr.R.Chandrasudan, Advocate, S.R.No. 8647

+1cc to the Government Pleader, S.R.No. 9197

W.P.No.2924 of 2021

PVS (CO)
GN(16/03/2021)