



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.15267 OF 2011

AND

M.P.NO.1 OF 2011

1. Sammanasamary
2. Gnanapoo
3. Devadoss
4. Sigamani
5. Arokkiasamy
6. Savarimuthu
7. Reginamarry

... Petitioners

.Vs.

1. The District Collector,
Villupuram District,
Villupuram.
2. The Special Thasildar,
(Adi Dravidar / Tribal Welfare),
Kallakurichi,
Villupuram District.
3. V.Kannan

... Respondents

PRAYER:-

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records impugned order vide A/816/2008, dated 27.05.2011 issued by the 2nd respondent and quash the same and directing the respondents to grant the patta to the petitioners based on their long standing possession and enjoyment in respect of the lands in their occupation for the Natham Survey No.251/1, Rishivanthiyam Pudhu Colony, Sankarapuram Taluk, Villupuram District as per the Government Scheme.



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For Petitioners : Mr.R.Kumaravel
For Mr.V.Manohar

For Respondents

For R1&R2 : Mr.Richardson
Government Advocate

For R3 : Mr.Sesubalan Raja

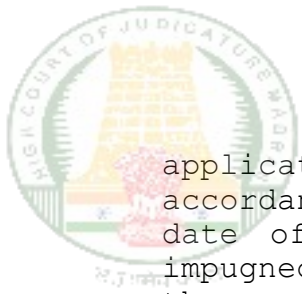
O R D E R

The Writ Petition is heard through video conferencing.

2. The Writ Petition has been filed challenging the order in A/816/2008, dated 27.05.2011 issued by the 2nd respondent and grant patta to the petitioners in respect of the lands in their occupation in Natham Survey No.251/1, Rishivanthiyam Pudhu Colony, Sankarapuram Taluk, Villupuram District.

3. The petitioners are permanent residents of their respective houses in Rishivanthiyam Village, for the past several years. While that being so, the third respondent made allegations against the petitioners stating that they have encroached the land earmarked for public purpose and constructed houses and he also filed a Writ Petition in W.P.No.11489 of 2009 before this Court for eviction of the petitioners, in which, this Court directed the respondents 1 and 2 to initiate proceedings to evict the petitioners. The said eviction proceedings was challenged before this Court in W.P.No.15559 of 2010. Simultaneously, the third respondent filed a Contempt Petition in Cont.P.No.1202 of 2010 as against the respondents 1 and 2 for non-compliance of the order passed by this Court in W.P.No.11489 of 2009. The Division Bench of this Court, while dismissing the Contempt Petition on 13.12.2010 had disposed of the Writ Petition with a direction that as the petitioners already filed an appeal on 13.10.2009 as against the eviction proceedings and the same is pending on the file of the first respondent, the first respondent shall dispose of the same as expeditiously as possible.

4. While pending the said appeal, the petitioners applied for issuance of patta for their respective lands in occupation in Survey No.251/1 in Rishivanthiyam Village, Sankarapuram Taluk, Villupuram District and that was not considered. As such, another Writ Petition was filed by the petitioners before this Court in W.P.No.4456 of 2011 and this Court by order, dated 14.03.2011 directed the second respondent to consider the



applications of the petitioner and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of the order. Thereafter, by the impugned order dated 27.05.2011, the second respondent rejected the applications for the reason that the land comprised in Survey Nos.251/1, 3, 6, 10 and 11 ad-measuring 4.45 acres situated in Rishivanthiyam Village, Sankarapuram Taluk, Villupuram District was acquired in the year 1969 for providing house sites to the poor Adi Dravidars of Rishivanthiyam Village. After completion of the land acquisition proceedings, house site pattas were issued to 63 poor houseless Adi Dravidars in the year 1969 itself. In the said acquired land, an extent of 0.25 acres have been allocated for common purpose in Survey No.251/1, in which, the petitioners had encroached and constructed houses. As the subject land was already allotted for common purpose, the petitioners are not entitled for patta. Further, they were already declared as encroachers and eviction proceedings were initiated and the same is pending.

5. The learned counsel for the petitioners submitted that, admittedly, the petitioners are in possession of their respective houses. The houses were built long back and no one objected the same. When the third respondent constructed a house, he finds some hindrance to reach his house. As such, he filed the Writ Petition in W.P.No.11489 of 2009 against the petitioners with an allegation that they have encroached the land in Survey No.251/1. In fact, the petitioners were not parties to the said proceedings. He further submitted that in view of the above, the petitioners are entitled for patta for their respective house sites.

6. Admittedly, the petitioners occupied a portion of land in Survey No.251/1 situated at Rishivandhiyam Village and constructed houses. The petitioners and others constructed houses as mentioned below:

- | | | |
|-----------------|---|------------------------------|
| a) Gnanapoo | - | Asbestos sheet roof building |
| b) Devadoss | - | Asbestos sheet roof building |
| c) Sigamani | - | Terraced building |
| d) Arockiasamy | - | Terraced building |
| e) Samanasamary | - | Terraced building |
| f) Soosaimuthu | - | Sheet roof building |
| g) Yesurajan | - | Terraced building |
| h) Mariprakasam | - | Terraced building |

7. Though the third respondent filed Writ Petition in W.P.No.11489 of 2009 without impleading the petitioners herein, this Court directed the official respondents 1 and 2 to take action to remove the encroachment in the vacant land earmarked for formation of road and future utilisation in S.No.251,



Rishivanthiam Colony, Sankarapuram, Kallakurichi, Villupuram in accordance with law. It was further observed therein that the encroachers are entitled to notice before any action for removal is contemplated by the respondents and the respondents 1 and 2 shall complete the eviction proceedings in two months time from the date of receipt of a copy of the order.

8. Subsequently, the respondents 1 and 2 initiated action to remove the encroachers in Survey No.251/1. The petitioners filed appeal before the first respondent on 13.10.2009 and also filed a writ petition challenging the above eviction order, whereas the third respondent has filed Contempt Petition for non-compliance of the above eviction order. The Division Bench of this Court, while closing the Contempt Petition, directed the appellate authority to dispose of the appeal as early as possible and till such time, the possession of the petitioners shall not be dispossessed. Thereafter, the second respondent rightly rejected the request made by the petitioners for issuance of patta. Hence, the Writ Petition is devoid of merits and they are liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The District Collector,
Villupuram District,
Villupuram.
2. The Special Thasildar,
(Adi Dravidar / Tribal Welfare),
Kallakurichi,
Villupuram District.

+1cc to Mr.V.Manohar, Advocate, S.R.No.39298
+1cc to Mr.Sesubalan Raja, Advocate, S.R.No.39221
+1cc to the Government Pleader, S.R.No.39463

W.P.NO.15267 OF 2011

RP(CO)
PBS/14/09/2021