IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.1912 of 2018 and C.M.P. No.15419 of 2018

K.P.N.Kumaran ... Appellant

vs

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Tashildar,
Sriperumbudur Taluk,
Sriperumbudur,
Kancheepuram District.

3.The Revenue Inspector,
Padappai,
Sriperumbudur Taluk,
Kancheepuram District.

4.The Village Administrative Officer,
Salamangalam Village,
Sriperumbudur Taluk,
Kancheepuram District. ... Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent against the order dated 26.04.2018 made in W.P. No.9602 of 2014 on the file of this Court.

Prayer in W.P. No.9602 of 2014:

Writ Petition filed under Article 226 of the Constitution of India praying to is a Writ of Mandamus, forbearing the respondents or their subordinates or anybody acting under them from dispossessing the petitioner from the land measuriong 40 cents comprised in S.No.226/2 of Salamangalam Village, Sriperumbudur Taluk, without following the procedures established under law.

For Appellant : Mr.K.Seetharam

For Respondents : Mr.T.Arunkumar,
Government Advocate

JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

This writ appeal has been filed challenging the correctness of the impugned order dated 26.04.2018 passed in W.P. No.9602 of 2014, wherein the learned Single Judge, observing that the writ petitioner being an encroacher has not established even a semblance of right so as to consider the writ petition, has dismissed the same.

2.Learned counsel appearing for the appellant submitted that the appellant, who is a poor farmer, has been residing in a thatched house, situated in the land measuring to an extent of 40 cents, comprised in S.No.226/2 of Salamangalam Village, Sriperumbudur Taluk, Kancheepuram District and has been eking out his livelihood from and out of the income derived from cultivating land. Originally, the above said land was in possession of the grand father of the appellant for several decades and since his birth, he has been living in the said property. Learned counsel for the appellant further submitted that the grand father of the appellant executed a Will dated 25.10.1995 bequeathing the said land in his favour. After the demise of his grand father, the appellant herein has been living in the thatched house and paying the property tax to the Salamangalam Village Panchayat. To prove his cultivation of flowers in the said land, the appellant has filed Adangal Extract of Salamangalam Village for the Fasli years 1420 and 1421 issued by the Tahsildar, Sriperumbudur Taluk, the second respondent herein. Besides, he has also filed Notices under Section 5 of the Land Encroachment Act, 1905 issued by the Revenue Inspector, Padappai, the third respondent herein during the Fasli years 1410 and 1421. In this regard, the Village Administrative Officer, the fourth respondent herein and the Tashildar, the second respondent herein have issued Possession Certificates dated 29.11.2011 and 07.12.2011 certifying that the appellant has been in possession of the said land. While so, the subordinates of respondents 3 and 4 threatened the appellant to dispossess from the subject property without serving any notice. Therefore, the appellant has been advised to come to this Court invoking Article 226 of the Constitution of India for issuance of writ of mandamus, forbearing the respondents or their subordinates or anybody acting under them from dispossessing the appellant from the above land. Pleading further, it is stated that the learned Single Judge, without considering the case of the appellant that the appellant, neither residing nor had put up any commercial building and only tied his cows and grazing them for the past three generations, has dismissed the writ petition with a direction to the District Collector to initiate appropriate disciplinary action against the Revenue Officials, who have committed negligence of duty in preserving of public lands. Therefore, the appellant is before this Court, it is pleaded.

3.Opposing the above submissions made by the learned counsel appearing for the appellant, learned Government Advocate appearing for the respondents submitted that the possession certificates issued by the Tahsildar and the Revenue Inspector did not carry the official seal of the revenue department. In support of his submission, learned Government Advocate, soliciting our notice to the typed set of papers filed by the appellant, demonstrated that none of the possession certificates issued by the Tahsildar, Revenue Inspector or the Village Administrative Officer carried the official seal of the Government. He further submitted that whenever the Tahsildar issues any certificate along with his signature, the official round seal of the office would be appended, which is missing in the documents produced by the appellant and therefore, it would create huge suspicious and doubt on the genuineness of the certificate.

4.When the said submission was made by the learned Government Advocate appearing for the respondents in the earlier hearing, to find out the veracity of the documents, we directed the Deputy Superintendent of Police, Sriperumbudur to file a report, after conducting detailed enquiry on the possession certificates. Pursuant to our order, Mr.P.Manikandan, Enquiry Officer/Deputy Superintendent of Police, Sriperumbudur, Kancheepuram District has filed a Status report dated 01.11.2021 stating that he has conducted a detailed enquiry, in which, it has been found that the signature, as found in the possession certificate, produced by the appellant, failed to match with the signatures of late Arunmozhivarman, Village Administrative Officer. Further, he has stated in the Status Report that the present Village Administrative Officer, identifying the signature of the said Village Administrative Officer and finding that the signature, as found in the Possession Certificate, is not that of the then Village Administrative Officer, has come to the conclusion that the signature of the Village Administrative Officer in the alleged possession certificate, produced by the appellant is the product of forgery. In this regard, it is relevant to extract the same as under:

> '8.As far as the Possession Certificate stated to have been issued by the Tahsildar, Sriperumbudur is concerned, my enquiry reveals the following aspects:
> (i) There is no such procedure of issuing any Possession Certificate by the Revenue Department during the relevant period, i.e. during the year 2011 and the State Government had issued a complete

ban for issuance of any such Possession Certificate in respect of any poramboke or Government lands.

(ii)Any Certificate issued by the Tahsildar, Sriperumbudur or other areas, would invariably contain the Proceedings Number, under which the Certificate is being issued. But in this Possession Certificate, no such Proceeding Number is found.

(iii)The property in question, i.e. S.No.226/2 of Salamangalam Village, comes within the limits of Padappai firka and as such only the Revenue Inspector of Padappai can make his counter signature in any certificate issued by the revenue department. But in this possession certificate, the seal of Revenue Inspector of Serappanancherri is found.

(iv)Any Certificate issued by the Tahsildar, Sriperumbudur should invariably contain the round seal of the Taluk Office. But in this certificate, no such seal is found.

(v)In this Possession Certificate, a signature, alleged to be of the Revenue Inspector of Serappanancherri is found. Only the Revenue Inspector of Padappai is the authority for Salamangalam Village and as such the Revenue Inspector of Serappanancherri has nothing to do with any landed property falling within Salamangalam Village.

(vi)During the relevant period, i.e. during the year 2011, one Mr.Chinnadurai had worked as the Revenue Inspector of Padappai Firka. When the said Revenue Inspector Mr.Chinnadurai was enquired, he had stated that the signature found in the alleged possession certificate is not that of him.

(vii)During the relevant period, one Smt.Premila had worked as the Revenue Inspector of Serappanancherri. During my enquiry, the said Revenue Inspector had given a statement stating that the signature contained in the alleged possession certificate is not that of him. He had also produced the copies of revenue records, which contain his signatures. The signatures of the said Revenue Inspector as contained the revenue records, do no match with the signature found in the alleged possession certificate.

(viii)The possession certificate also contains the alleged signature of the then Tahsildar, Sriperumbudur. During the relevant period, one Mrs.N.Lakshmi had worked as the Tahsildar of Sriperumbudur Taluk Office. I had enquired her and recorded her statement. She had stated that she used sign only in Tamil and she never signed in English. She had identified her signatures as contained in several revenue records from the Sriperumbudur Taluk Office. She had stated that the signature contained in the alleged possession certificate is not that of her. The signatures of the said Tahsildar, Smt.N.Lakshmi, as contained in the revenue records, do not match with the signature contained in the alleged possession certificate.

(ix)My enquiry reveals that the alleged signatures of the Village Administrative Officer of Salamangalam, the Revenue Inspector of Serappanancherri and the Tahsildar of Sriperumbudur are not genuine and it appears that they are the products of forgery.'

5.A perusal of the Status Report filed by the Deputy Superintendent of Police, Sriperumbudur clearly shows that the possession certificates are not genuine and they are unworthy of acceptance.

6.In view of the same, we therefore do not find any merit or justification in the claim made by the appellant. Accordingly, this Writ Appeal is dismissed. Consequently, C.M.P. No.15419 of 2018 is closed. No costs.

7.Liberty is given to the respondents to take appropriate action against the appellant in the manner known to law for forging the documents.

8.For filing this frivolous appeal, we impose a cost of Rs.25,000/- to the appellant and the same shall be payable to the Tamil Nadu Advocate Clerks' Association, High Court, Madras 600 104 within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Perambalur (Now Ariyalur),
Perambalur District.
(Now Ariyalur District),
Now Ariyalur District.

2.The Special Tahsildar,
Adi Dravidar Welfare,
Ariyalur (Now Udayarpalayam)

3.The Revenue Inspector,
Padappai,
Sriperumbudur Taluk,
Kancheepuram District.

4.The Village Administrative Officer,
Salamangalam Village,
Sriperumbudur Taluk,
Kancheepuram District.

5.Tamilnadu Advocate Clerks Association,
High Court, Madras-600104.

+1cc to Government Pleader SR. No. 57676

+1cc to Mr.K.Seetha Ram, Advocate Sr.No.57031(03/02/2022)

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JPL (CO)
PR (19/01/2022)