



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM :

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NOS.12824 & 12826 OF 2021

Sanmugam ...Petitioner in W.P. No.12824 of 2021

Tirupathi ...Petitioner in W.P. No.12826 of 2021

Vs

1.The District Revenue officer,
Dharmapuri district.

2.The Revenue Divisional officer,
Dharmapuri.

3.The Tahsildhar,
Pennagaram,
Dharmapuri district.

...Respondents in All Writ Petitions

COMMON PRAYER : These Petitions are filed under Article 226 of the Constitution of India, praying for to issue Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order O.Mu.No.224/2020/(A2) dated 04.02.2021 passed by the 3rd respondent and quash the same as illegal, arbitrary, in operative in law and further directing the 3rd Respondent to issue patta based on Decree Dated 11.03.02020 in O.S No.44/2019 passed by the Principal District Court, Dharmapuri and Decree dated 21.01.2021 in O.S. No.372 of 2018 passed by the Additional Sub-Court, Dharmapuri and pass orders accordingly.

In Both Petitions

For Petitioners :: Mr.M.Ravi

For Respondents :: Mr.Yogesh Kannadasan
(Government Advocate)

C O M M O N O R D E R

These Writ Petitions have been filed under Article 226 of the Constitution of India, praying for to issue Writ of



Certiorarified Mandamus calling for the entire records relating to the impugned order O.Mu.No.224/2020/(A2) dated 04.02.2021 passed by the 3rd respondent and quash the same as illegal, arbitrary, in operative in law and further directing the 3rd Respondent to issue patta based on Decree Dated 11.03.02020 in O.S No 44/2019 passed by by the Principal district court, Dharmapuri & decree dated 21.01.2021 passed by the Additional Sub-Court, Dharmapuri and pass orders accordingly.

2.The learned counsel for the petitioners would submit that the petitioners gave representations directly to the 3rd respondent herein on 06.07.2020 and 10.06.2020 for issuance of patta, in Papparapatti village, Grama Natham survey No 523/1, based on Decree Dated 11.03.02020 in O.S No 44/2019 passed by by the Principal district court, Dharmapuri & decree dated 21.01.2021 passed by the Additional Sub-Court, Dharmapuri. In above survey number, the petitioners are enjoying the property by virtue of Sale Deeds vide document Nos.2124/2017 dated 06.09.2017, 2319/2017 dated 25.09.2017 and 2741/2017 dated 10.10.2017 which has been purchased from one Sakthivel.

3. It has been further submitted by the learned counsel for the petitioners that the petitioners have filed suit for declaration before the Principal district court, Dharmapuri in O.S No 44/2019 and the Additional Sub-Court, Dharmapuri in Principal district court, Dharmapuri in O.S No.372/2018 and they have got decree in their favour by decree dated 11.03.2020 and 21.01.2021 for the property in papparapatti village, Grama Natham survey No 523/1. Hence, the petitioners gave representations on 06.07.2020 and 10.06.2020 to the 3rd respondent to grant patta in their favour. Further, They approached the 3rd respondent number of times and also issued lawyer notice to 3rd respondent office for issuance of patta. However, the 3rd respondent has not issued Patta so far in favour of the petitioners herein. In the meanwhile, the 3rd respondent issued impugned order dated 04.02.2021 stating that in above survey number patta No.116 was cancelled by the 2nd respondent vide Pa.Mu.No.9483.2017.A3 dated 31.01.2018 and the petitioners were informed to approach the 1st respondent herein for their relief. But in RTI reply dated 21.08.2020 of the 3rd respondent states that as on date patta, chitta is still in the name of Sakthivel who has sold the aforesaid property to the petitioners herein. While being so, there is no hindrance and objection in issuing of Patta in the name of the petitioners herein.

4. The learned counsel for the petitioners would further submit that as per G.O.Ms. No.1971, dated 14.10.1988 issued by the Revenue Department, Patta was issued in the name of Gajalakshmi under the Natham settlement scheme since she has



occupied the lands classified as Natham poramboke and also rent has been received from her for the said land. Thereafter she executed settlement deed to her son Sakthivel and patta was also transferred to his name on 23.03.2016 after issuing necessary orders by the 3 respondent in this regard. Before the settlement scheme, the said property was enjoyed by the Gajalakshmi family. Her father-in-law Govindha naidu occupying the house site premises and also registered will in favour his minor son Muniyappa naidu vide document No.14/1938 dated 29.08.1938 at Palacode Sub-registrar. After his demise, the said property came under the hands of Gajalakshmi, based on possession and issued patta under the Natham settlement scheme by the 3rd respondent. Thereafter Gajalakshmi paid tax to the government and transferred the house sites his son sakthivel, since old age problems.

5. It has been further submitted that based on the above facts, the petitioners have purchased the aforesaid property from Sakthivel and sought for issuance of patta. But the 3rd respondent inert action on issuance of patta and cancelling of the patta of the Gajalakshmi by the 2nd respondent Vide Pa.Mu.No.9483.2017.A3 dated 31.01.2018 without jurisdiction. As per the G.O.Ms.No.1971, Revenue department 14.10.1988 under the Natham settlement scheme, no appeal has been preferred by parties to the 2nd respondent in survey no.523/1 and based on 3rd party compliant, the 2nd respondent has passed order without following No.K4/28307/11, dated 29.08.2011 by the Commissioner of Land Administration. The Appeal should not be entertained by the Revenue Divisional Officers against orders of the 3rd respondent herein/Tahsildar, Natham settlement scheme since the appeal is barred by limitation. Hence, the petitioner is left with no other alternative remedy except to approach this Court by invoking its jurisdiction under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned order O.Mu.No.224/2020/(A2) dated 04.02.2021 passed by the 3rd respondent and quash the same.

6. It has been further submitted by the learned Government Advocate for the respondents that the subject land was originally a part of the then Salem Jilla before and post-independence period. Based on the A- Register of the Salem Jilla, it was found that the subject lands were part of Zaminaris lands and they were taken over by the Government of Tamil Nadu on 16.11.1952, after the abolition of Zamindari System in the then State of Madras. After the creation of the Dharmapuri District in the year 1964, the subject lands were vested the District Administration of the Dharmapuri District.

7. The learned Government Advocate for the respondents would submit that the petitioners have obtained ex-parte decree



without impleading the respondents herein in the O.S. Nos.44 of 2019 and O.S. No.372 of 2018 before the Trial Court. Further, the petitioners were well aware of the fact that the subject lands belong to the Government and the same has been classified as "Natham Poramboke" as deduced from their statements deposed before the 2nd respondent in the year 2018. The petitioners in their own statements have accepted that the land was originally occupied by one Mr. Govindhu Naidu and latter he had executed a Will with Document No.14 of 1938 dated 29.08.1938 on the file of the Sub-Registrar, Palacode. It is pertinent to note that mere occupation of a public land without Patta can only be termed as "Encroachment".

8. The learned Government Advocate for the respondents would further submit that the Natham Settlement Scheme came into existence in the State of Tamil Nadu through GO.Ms. No.1971 Revenue Department dated 14.10.1988, with a view to provide free house site to eligible persons those who are not having any immovable properties being poor and pauper. While being so, the said erstwhile Mrs.Gajalaxmi was vested with huge volumes of lands in the Pennagaram Taluk, Dharmapuri District which makes her ineligible under the Natham Settlement Scheme.

9. It has been further submitted that if a Patta has been granted in favour of Mrs. Gajalaxmi, no rent would have been collected by the Revenue Authorities since it has been stated that the erstwhile owner was paying ground rent for the subject lands, being occupied by her.

10. The learned Government Advocate for the respondents would further submit that the subject lands as on date consists of commercial building which is prohibited by the Natham Settlement Scheme. It is true factum that Mrs. Gajalaxmi had illegally occupied the subject lands and has constructed a commercial building in the subject lands, which was classified as "Natham Poramboke" even before the introduction of Natham Settlement Scheme and Updating Registry Scheme. (UDR). After being brought to the notice of the 2nd respondent of the illegal occupation of the Natham Poramboke Lands inclusive of the Subject Lands in the Paparapatty Village, the 2nd respondent by the powers vested with him by and through G.O.Ms. No.385, Revenue Department, cancelled the illegal patta obtained in the name of Mrs. Gajalaxmi and restored the subject lands to its original condition by his proceedings Pa.Mu.9483/2017/A3 dated 31.01.2018. In the above circumstance, it is very much apparent that Mrs.Gajalaxmi is an encroacher of the subject lands and the petitioners herein had purchased the subject lands without verifying the documents of the subject lands from Mrs. Gajalaxmi. Hence, the writ petition is liable to be dismissed.



11. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondents as well as perused the material available on records.

12. On a perusal of the records, it is seen that the subject property has been purchased by the petitioners by virtue of Sale Deeds vide document Nos.2124/2017 dated 06.09.2017, 2319/2017 dated 25.09.2017 and 2741/2017 dated 10.10.2017 which has been purchased from one Sakthivel. However, the learned Counsel for the respondents has submitted that the petitioners have purchased the subject property without verifying the documents since the erstwhile owner has been termed as "Encroacher" of the subject property. Further, the petitioners have submitted their representations dated 10.06.2020 06.07.2020 before the 3rd respondent based on the Decree dated 11.03.2020 in O.S. No.44 of 2019 and dated 21.01.2021 in O.S. No.372 of 2018 passed by the Trial Court. The same was decreed as Exparte and without impleading the respondents herein. Under such circumstances, the petitioners have also filed appeal before the 1st respondent seeking for their relief and claim in the said property after submitting the related documents. While being so, this Court without expressing any opinion with regard to the merits of the case, directs the 1st respondent to dispose of the appeal filed by the petitioners herein as expeditiously as possible since the petitioners are claiming the property relying upon the various Sale Deeds executed in their favour and Decree Dated 11.03.02020 in O.S No 44/2019 passed by by the Principal District Court, Dharmapuri & decree dated 21.01.2021 passed by the Additional Sub-Court, Dharmapuri.

13. In the result, the Writ petitions are disposed of accordingly. Consequently, connected miscellaneous petitions are closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

Lbm

To:

- 1.The District Revenue officer,
Dharmapuri district.
- 2.The Revenue Divisional officer,
Dharmapuri.



3.The Tahsildhar,
Pennagaram,
Dharmapuri district.

+1cc to the Government Pleader SR.No.51256

W.P.Nos.12824 & 12826 of 2021

SJ(CO)
RVM(05/01/2022)