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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10729 of 2021

M.Subramani

... Petitioner

vs.

1. The Tahsildar,
Gudalur Taluk,
Gudalur,
Nilgiri District,
Pin: 643212.
2. The Taluk Surveyor,
Taluk Office Campus,
Gudalur,
Nilgiri District,
Pin: 643212.
3. The Inspector of Police,
Gudalur Police Station,
Gudalur, The Nilgiris,
Pin: 643212.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st and 2nd respondents to survey the lands and mark the boundaries in survey Nos.477/9, 477/1 measuring an extent of 4014 acre of land in patta number 306, situated at Padanthorai Village, Gudalur Taluk, The Nilgiris District with the help of the 3rd respondent herein on the basis of the petitioner's representation dated 05.04.2021, after receiving necessary charges from the petitioner.

For Petitioner : No Appearance

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader



ORDER

This writ petition has been filed to issue a Writ of Mandamus, to direct the 1st and 2nd respondents to survey the lands and mark the boundaries in Survey Nos.477/9 and 477/1 measuring to an extent of 40.14 acre of land in Patta Number 306, situated at Padanthorai Village, Gudalur Taluk, The Nilgiris District with the help of the 3rd respondent herein on the basis of the petitioner's representation dated 05.04.2021, after receiving necessary charges from the petitioner.

2. The case of the petitioner is that the land comprised in Old S.No.251/A, New S.Nos.477/9 and 477/1 situated at Padanthorai Village, Gudalur Taluk, Nilgiri District, ad-measuring to an extent of 40.14 acres originally belong to one Janmam of Nilambur Kovilakam from whom one Mr.Babu had taken lease in the year 1950, which was later entrusted to the petitioner's father for development on the condition that after development the property can be shared. However, in the month of March 1951, the Janmam of Nilambur Kovilagam recognized the petitioner's father as their tenant. It also collected the lease amount from the petitioner's father and issued receipts for the payment of patta. Thereafter, Tamil Nadu Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 came into force and in and by virtue of which, the said lands are vested with the State Government in accordance with the said Act. However, when a person has been cultivated such land for a continuous period of three agricultural years prior to June, 1969, he is entitled to the Ryotwari Patta. However, the Forest Officials attempted to evict the petitioner by force. The petitioner also filed suit in O.S.No.25 of 1985 before the District Munsif Court at Gudalur.

3. While so, on 11.07.1991 a team of six persons came to the subject properties and caused damages. The petitioner lodged complaint. The Assistant Settlement Officer, Dharapuram by the proceedings in ROC.B.498/98 dated 11.11.1998 granted Ryotwari Patta to the petitioner in Old S.No.251/A resurveyed as S.Nos.477/9 and 477/1 ad-measuring to an extent of 28.78 acres and 11.34 acres of Padanthorai Village, Gudalur Taluk, The Nilgiris District. Thereafter, the petitioner submitted a representation dated 28.01.2021 before the 1st respondent to measure the land comprised in S.Nos.477/9 and 477/1 to an extent of 40.14 acres under Patta No.306 and to induct the stone.

4. The 1st respondent filed counter affidavit dated 24.09.2021, revealed that the land comprised in S.Nos.477/1 and 477/9 situated at Padanthorai Village of Gudalur Taluk, had already been under various appeals before the Janmam Abolition Tribunal and this Court and at present, before the Hon'ble



Supreme Court of India in SLP.Nos.27918-27919 of 2015. The Ryotwari Patta granted by the Assistant Settlement Officer, Dharapuram in favour of the petitioner in respect of the subject land was already set aside by the Tribunal by its order dated 04.06.2003 in C.M.A.Nos.7 and 15 of 1999. Even, when the case was remanded by this Court, again rejected the appeal and confirmed its earlier order dated 25.02.2009. A batch of ryotwari patta were wrongly granted by the Assistant Settlement Officer, Dharapuram in the Janmam lands in Gudalur were also set aside by the Tribunal in a common order dated 25.02.2009.

5. Aggrieved by the same, a batch of appeals filed before this Court in S.T.A.Nos.6 and 7 and S.T.A.Nos.2 to 11, 14 and 15 of 2009 were dismissed by this Court by the common judgement dated 28.05.2015. In fact, one Babu Jacob the Power of Attorney on behalf of the petitioner's father had filed in S.L.P.Nos.27918-27919 of 2015 before the Hon'ble Supreme Court of India and they were pending before the Hon'ble Supreme Court of India. Suppressing these facts, the petitioner filed this writ petition to survey and demarcate the subject land. The petitioner is also not in possession and enjoyment of the subject land and suppressed all the above facts and filed this writ petition. Therefore, this writ petition is devoid of merits and it is liable to be dismissed.

6. Accordingly, the writ petition is dismissed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Tahsildar,
Gudalur Taluk,
Gudalur,
Nilgiri District,
Pin: 643212.
2. The Taluk Surveyor,
Taluk Office Campus,
Gudalur,
Nilgiri District,
Pin: 643212.



3. The Inspector of Police,
Gudalur Police Station,
Gudalur, The Nilgiris,
Pin: 643212.

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+1cc to Government Pleader SR. No.67489

W.P.No.10729 of 2021

GJ (CO)
PR (05/01/2022)