

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.13725 of 2021

K.Annadurai

... Petitioner

Vs

- 1 The District Collector
Collectorate Namakkal District
- 2 The District Revenue Officer
Collectorate Namakkal District
- 3 The Revenue Divisional officer
RDO Office Namakkal and District
- 4 The Tahsildar
Taluk Office Namakkal District
- 5 The Executive Engineer
Public Works Department (PWD)
Namakkal District
- 6 R.Periyasamy
- 7 V.Kaliappa Gounder
- 8 S.Varuthappan
- 9 S.Saroja
- 10 N.Ramasamy
- 11 Aaramayee
- 12 K.Sengodan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 4th respondent to comply with the order through proceedings

Moo.Moo.No.30175/ 2019 / L5 dated 28.1.2020 issued by the 2nd respondent and also to direct the 4th respondent to remove the encroachments on the Natural Track and Cannal in Survey Nos.which 36/1B 36/3G 43/2C 47/B 38/4B 98/5A 98/3A 97/6B2 97/6A 98/10 96/2 44 45 46 47 and 49 is situated in Kullappa Nayakkan patti Kathiranallur village Namakkal Taluk and District.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.P.Muthukumar
Counsel for State,
for respondents 1 to 5

ORDER

(Made by SENTHILKUMAR RAMAMOORTHY, J.)

The petitioner complains of alleged encroachment by respondents 6 to 11 in various survey numbers as indicated in the affidavit in support of the petition at Kulappa Nayakkam Patti, Kathiranallur village, Namakkal Taluk and District.

2. The petitioner states that the lands in the aforesaid survey numbers are government lands but that pattas have been issued in respect thereof. It is also pointed out that proceedings under the Tamil Nadu Land Encroachment Act, 1905 have been initiated against persons who complained of encroachment by respondents 6 to 12 but not against the actual encroachers.

3. It is elementary that once pattas have been issued in respect of specific parcels of land, the person aggrieved should initiate appropriate action to cancel such pattas. In the case at hand, no such action has been initiated as on date.

4. Mr.Muthukumar, learned counsel for the State accepts notice on behalf of respondents 1 to 5 and states that proceedings for cancellation of patta should be instituted before the Revenue Divisional officer concerned.

5. In the aforesaid facts and circumstances of the case, without going into the merits of the matter, the petitioner is granted leave to submit a fresh representation for cancellation of patta, to the third respondent herein. Such representation shall be submitted within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the third respondent is directed to consider such representation, conduct an inquiry in respect thereof by providing a reasonable opportunity both to the petitioner and to respondents 6 to 12

herein, and conclude such proceedings by a reasoned order within a period of eight weeks from the date of receipt of such representation. In the event it is concluded that there is indeed an encroachment, the official respondents are directed to take action in accordance with law for the removal of such encroachment.

6. W.P.No.13725 of 2021 is disposed of in these terms without any order as to costs. Consequently, W.M.P.No 14568 of 2021 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

- 1 The District Collector,
Collectorate, Namakkal District.
- 2 The District Revenue Officer,
Collectorate, Namakkal District.
- 3 The Revenue Divisional officer,
RDO Office, Namakkal and District.
- 4 The Tahsildar,
Taluk Office, Namakkal District.
- 5 The Executive Engineer,
Public Works Department (PWD),
Namakkal District.

+lcc to Mr.P.Vijendran, Advocate Sr.30787

+lcc to the Government pleader Sr.30834

W.P.No.13725 of 2021

kv[col]
srg 06/07/2021