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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. Nos. 15811 to 15814 of 2014

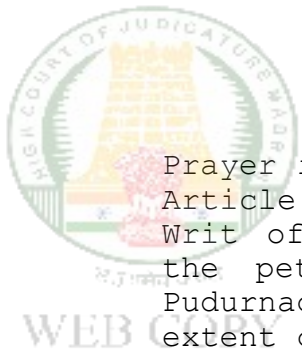
G.Rani W/o.Govindaraj	... Petitioner in W.P.No.15811/2014
A.Lakshmanan S/o.Annamalai	... Petitioner in W.P.No.15812/2014
K.Kali S/o.Kuppusamy	... Petitioner in W.P.No.15813/2014
Kali S/o.Kariyala Govindan	... Petitioner in W.P.No.15814/2014

Vs

1. The State of Tamil Nadu
Rep. by the Secretary to Government,
Revenue Department, Fort St. George,
Chennai - 600 009.
2. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Environment and Forest Department,
Fort St. George, Chennai - 600 009.
3. The District Collector,
Vellore District, Vellore.
4. The Tahsildar,
Tirupattur Taluk,
Vellore District.

... Respondents in all Wps

Prayer in W.P.No.15811 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Athanavur Village & Post, Elagirimalai, Tirupattur Taluk, Vellore District to an extent of 3.00 acres.



Prayer in W.P.No.15812 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Nadukuppam Post, Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 4.00 acres.

Prayer in W.P.No.15813 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Nadukuppam Post, Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 3.00 acres.

Prayer in W.P.No.15814 of 2014: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Vilankuppam Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 3.00 acres.

In all W.Ps

For Petitioners : No appearance

For Respondents : Mr.Richardson Wilson
Government Advocate

COMMON ORDER

W.P.No.15811 of 2014 has been filed for issuance of writ of mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Athanavur Village & Post, Elagirimalai, Tirupattur Taluk, Vellore District to an extent of 3.00 acres.

2. W.P.No.15812 of 2014 has been filed for issuance of writ of mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Nadukuppam Post, Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 4.00 acres.

3. W.P.No.15813 of 2014 has been filed for issuance of writ of mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Nadukuppam Post, Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 3.00 acres.



4. W.P.No.15814 of 2014 has been filed for issuance of writ of mandamus, directing the respondents to issue patta to the petitioner for the lands comprised in Vilankuppam Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 3.00 acres.

5. All the petitioners are resident of the address mentioned in the petitions. They are in possession and enjoyment of the respective land comprised in Athanavur Village & Post, Kodukollai Puliyamarathu Vattam, Elagirimalai, Tirupattur Taluk, Vellore District, to an extent of 3.00 acres, Nadukuppam Post, Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 4.00 acres, Nadukuppam Post, Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 3.00 acres and Vilankuppam Pudurnadu Village, Tirupattur Taluk, Vellore District, to an extent of 3.00 acres.

6. According to the petitioners, the above said lands are classified as "Hill Poromboke". Those properties were situated in Naraikinaru Village and the plains were irregular in shape and uncultivable, since the same is abetting the small hills. The petitioners had spent huge amount for the reclamation of the above mentioned property and they are cultivating the same. They are also paying the penal charges for their enjoyment of the subject properties to the Government. Therefore, they made representation to issue patta for the subject property.

7. It is the further case of the petitioners that similarly placed persons belonged to Salem Mavatta Ehpulli Malaivazh Makkal Nala Sangam, Puzhuthikuttai, Salem District, who had filed a writ appeal in W.A.No.376 of 2008, before this Court and the same was allowed by the Hon'ble Division Bench of this Hon'ble Court, by an order dated 20.10.2009. The relevant portion of the order is as follows :-

"31. In view of the aforesaid provisions of Law, as referred to above, we are of the that claim of the members of the appellant-Association, should be reconsidered and the impugned order passed by the Learned single judge cannot come in their way to defeat their claim. We accordingly, set aside the impugned order passed by the learned single judge in W.P.No.10954 of 2005, dated 01.04.2005 and remit the case to the respondents to re-consider the case of the members of the appellant-association in terms of one provisions of the Scheduled Caste and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 read with the Scheduled Caste and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2007 and after determination of their claim, if so



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required, the respondents will obtain permission of this Court before issuance of certificate of title in favour of one or other member of the appellant-association, in view of interim order as noticed and quoted above.

32. This Writ Appeal is allowed with the aforesaid observations and directions. No costs".

Based on which, the petitioners made representations to all the respondents, for issuance of patta to their respective lands.

8. The second respondent filed a counter stating that the subject properties were inspected by the Forest Range Officer of Tirupattur Forest Range, to ascertain as to whether it is a revenue poramboke or hill poramboke. Further it is stated that the subject properties are situated at outside the Reserved Forest area. Therefore, no title can be given under the Forest Rights Act, 2006, as claimed by the petitioners. The Forest Rights Act, 2006, concerns only with dwellers within the Reserved Forest. The subject properties are revenue hill poramboke and the question of declaring the land under Section 16 of the Forest Rights Act, 2006, does not arise.

9. It is further revealed that the subject lands belong to the revenue poramboke land and it is situated 0.80 km away from Mangalam Reserved Forest, 1.90 km away from Jolarpettai Reserved Forest and 1.40 km away from Nagaluthu Reserved Forest. Hence, no patta can be given by the Forest Rights Act, 2006 as claimed by the petitioners. Therefore, the second respondent is not the competent authority to issue patta as claimed by the petitioners.

10. However, the petitioners are at liberty to send fresh representation to the third and fourth respondents. If any representation made by the petitioners, the third and fourth respondents are directed to dispose of the same on merits and in accordance with law.

11. With the above direction, the Writ Petition is disposed of.

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

Lpp



To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department, Fort St. George,
Chennai - 600 009.
2. The Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Chennai - 600 009.
3. The District Collector,
Vellore District, Vellore.
4. The Tahsildar,
Tirupattur Taluk,
Vellore District.

+1cc to the Government Pleader, S.R.No.39781

+1cc to the Special Government Pleader (Forest), S.R.No.39836

W.P. Nos. 15811 to 15814 of 2014

SSI (CO)
SU(02/11/2021)