

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.20288 OF 2021

Kariyan

...Petitioner

Vs.

1.The Collector,
Namakkal District,
Namakkal

2.The Tahsildar,
Senthamangalam Taluk,
Namakkal District

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to furnish a copy of the Patta No.186 issued to the petitioner's land in S.No.390/9 to the extent of 0.0170.0 hectares situated at Varadharajapuram Village, Senthamangalam Taluk, Namakkal District based on the application made by the petitioner dated 01.08.2020.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.Yogesh Kannadasan
Government Advocate

O R D E R

This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to furnish a copy of the Patta No.186 issued to the petitioner's land in S.No.390/9 to the extent of 0.0170.0 hectare situated at Varadharajapuram village, Senthamangalam taluk, Namakkal District based on the application made by the petitioner dated 01.08.2020.

2. The brief facts of the case is that the petitioner purchased the land in S.No.390/9 to the extent of 0.070.0 hectare, patta no.186, at Varadharajapuram Village, Senthamangalam Taluk, Namakkal district and constructed a house. The petitioner was paying house tax, water and electricity charges for his house promptly and the land is classified as 'Natham' land. Due to poverty, while he was working in Kerala, at that time, the Government has issued patta to the land owners in S.No.390, hence the petitioner was not able to obtain patta, however, he came to know that patta no.186 was assigned. In consequence, the petitioner made several representations to the respondents to issue a copy of patta, however, no action was initiated to furnish the copy of the patta. Therefore, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner has constructed a house as per the plan made in the revenue records and there is no encroachment or violation of procedure with regard to the boundaries and the petitioner is paying house tax, water and electricity charges promptly. The Executive officer and President of Panchayat, Varadharajapuram issued an eviction notice dated 28.07.2021 to the residents of the said locality u/s 131(2) and 222 of the Tamilnadu Panchayat Act, 1994. Challenging the same, the petitioner has approached this Court by way of W.P.No.16945 of 2021 and W.M.P.No.17951 of 2021, this Court granted an order of interim stay on the ground that the Panchayat President have no jurisdiction to issue such a notice of removal of encroachment. That apart, the petitioner has produced all the documents to show that he is the title holder of the said land and submitted a representation dated 01.08.2020, the same has not been considered, therefore, the learned counsel for the petitioner prays that a direction may be issued to the respondents to consider the same and issue a copy of patta No.186 to the petitioner.

4. In contrary, the learned Government Advocate appearing for the respondents has produced a communication letter received from the 2nd respondent dated 02.10.2021.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the document placed on record.

6. On a perusal of the said communication letter, it could be seen that the subject property was marked as Government Poramboke Vacant land and the petitioner has built water tank, cattle shed, a building with asbestos sheet and rest room by encroaching 400 Sq.ft., Further, the petitioner has built a thatched house in S.No.390/24 Patta No.186 and in possession of the same. The said property was marked in the name of Muthuselvam son of Veeran and their family, the petitioner and the said Muthuselvam are brothers. Further, the petitioner owns a property at Senthamangalam Taluk, Muttanchetty Village, patta no.126, Nanjai land, in S.No.114/3A to an extent of 0.07.5 hectares, S.No.114/3C, extent of 0.15.0 hectares, S.No.114/7A, extent of 0.08.5 hectares and S.No.114/7D, extent of 0.08.0 hectares, In total, the petitioner owns property to an extent of 0.39.0 hectares.

7. Moreover, Muthuselvam, brother of the petitioner from Varadharajapuram village has filed W.P.No.5859 of 2021 to remove the encroachments in S.No.390/9. The Tahsildar, Senthamangalam as well as Revenue Divisional officer, Erumapati were directed to pass appropriate orders within a period of three months. In consequence, upon marking the said land, notice was issued through Varadarajapuram Panchayat. Aggrieved by the said action, the petitioner has approached this Court in W.P.No.16945 of 2021 and interim stay was ordered in favour of the petitioner. Since the encroachment was not removed as per the order of this Court in W.P.no.5859 of 2021, the brother of the petitioner, Muthuselvam has filed a contempt petition in Contp.No. 1202 of 2021 and the same was taken for arguments on 23.09.2021 and four weeks time was granted to the respondents for filing counter.

8. Besides the above, the authority has clearly stated that the subject land in which the petitioner sought for issuance of patta belongs to the Government and is mentioned as 'Government Poramboke vacant land' and that W.P.No.16945 of 2021 filed by the petitioner is pending before this Court and the contempt petition No.1202 of 2021 filed by the brother of the petitioner is also pending for adjudication and that the petitioner is in possession of the property to an extent of 0.39.0 ares Nanjai lands situated at Senthamangalam Taluk, Muttanchetty village, the petitioner's prayer to grant free house site patta, cannot be granted and the same is hereby rejected.

9. In view of the above, this Court is of the view that the petitioner is already in possession of various extents of land, therefore, the prayer of the petitioner for issuance of free house site patta, is liable to be dismissed and the petitioner is directed to work out his remedy in W.P.No.16945 of 2021 before the Hon'ble Division Bench. Accordingly, the present Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

ssd

To

- 1.The Collector,
Namakkal District,
Namakkal
- 2.The Tahsildar,
Senthamangalam Taluk,
Namakkal District

+1cc to Mr.S.Doraisamy, Advocate SR.No.52548

+1cc to the Government Pleader SR.No.53211

W.P.No.20288 of 2021

MG(CO)
RVM(08/11/2021)