

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 18686 of 2018

Vanniyakula Kshatriyar Dharma Sathira Sangam,
Represented by its President,
Shri.V.Subramaiyam,
Aged about 75 years,
Registration No.16/2006, Having registered
office functioning at, No.111/42,
M.P.S.Salai, Tiruttani Town and Taluk,
Tiruvallur District - 631 209.

... Petitioner

(Petitioner substituted vide order dated
18.06.2021 made in W.M.P. No. 11417 of
2021 in W.P. No. 18686 of 2018 by RSKJ.)

-vs-

1. The District Collector,
Tiruvallur District,
Tiruvallur - 602 001.
2. The Revenue Divisional Office,
Tiruttani Division,
Chennai - Tiruppati Road,
Tiruttani,
Tiruvallur District - 631 209.
3. The Tahsildar,
Office of the Tiruttani Taluk,
Chennai - Tiruppati Road,
Tiruttani,
Tiruvallur District - 631 209.
4. The Revenue Inspector,
Tiruttani Town,
Tiruttani Taluk,
Tiruvallur District - 631 209.
5. The Village Administrative Officer,
Madam Village, Tiruttani Town and Taluk,
Tiruttani,
Tiruvallur District - 631 209.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents 1 to 3 to issue patta in favour of petitioner Sangam in their property measuring about to an extent of 1 acre 84.5 cents in S.No.338/3 were situated at Arakkonam Road, Tiruttani Town, Tiruttani, Tiruvallur District as per the petitioner Sangam representation dated 26.06.2018.

For Petitioner : No appearance

For Respondents : Mr.Richardson Wilson
Counsel for Government

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents 1 to 3 to issue patta in favour of the petitioner Sangam in respect of the property measuring to an extent of 1 acre 84.5 cents in S.No.338/3 situated at Arakkonam Road, Tiruttani Town, Tiruttani, Tiruvallur District as per the petitioner Sangam representation dated 26.06.2018.

2. The petitioner claimed to be a Society, i.e., Sangam called "Vanniyakula Kshatriyar Dharma Sathira Sangam", which according to them was established on 14.01.2006 for the welfare of Vanniyakula Kshatriya Community people.

3. In this context, it is the case of the petitioner that, in 18th century, i.e., on 01.07.1729, the King of Karvatti Town by way of "Thamara Pathiram" claimed to have given a tank called "Etti Kulam". The corresponding present survey number of the same, according to the petitioner, is S.No.338/3 situated at Arakkonam Road, Tiruttani Town, Tiruttani Taluk, Tiruvallur District to the extent of 1 acre 84.5 cents. It is the further case of the petitioner that, the said "Etti Kulam" was under the control and management as well as maintenance of Vanniyakula Kshatriya Community from 1729 onwards. For the past 300 years, the said "Etti Kulam" has been maintained by the said community people. However, in the revenue records it stands as "Kulam" and also no patta was given.

4. Therefore, in order to mutate the revenue records in the name of the Sangam, the petitioner has given a representation on 26.06.2018 to the revenue authorities, i.e., respondents herein. However, the said representation, according to the petitioner, has not been considered by the respondents for grant of patta in respect of the said tank called "Etti Kulam" to and in favour of the petitioner Sangam. Seeking the said relief, the present Writ

Petition has been filed.

5. When the case is called, there is no representation for the petitioner, however, Mr. Richardson Wilson, learned counsel for the Government appearing for the respondents by relying upon the averments made in the counter affidavit filed on behalf of the respondents, i.e., third respondent, has submitted that, the tank in question is a water body and that in the revenue records, it has been recorded as such. He further added that, for time immemorial, it has been a water body and such kind of water bodies can never be given by way of patta to any individual or group of individuals like the present petitioner.

6. The learned counsel for the Government would also submit that, the Courts have given repeated orders in number of cases that, no water body shall be parted away to any individual or group of individuals for any purpose and the Government shall be very careful in giving patta in the water bodies poramboke lands.

7. Therefore, citing the said reasons, the learned counsel for the Government vehemently opposed the prayer sought for herein and would further submit that, the said representation of the petitioner dated 26.06.2018 cannot be considered and the relief sought for therein can never be granted to the petitioner.

8. I have considered the said submissions made by the learned counsel for the Government appearing for the respondents and have perused the materials placed before this Court.

9. The following averments have been made in the counter affidavit filed on behalf of the respondents:

"2. It is submitted that the petitioner has submitted an application on 26.06.2018 to the respondents for the assignment of the land in Survey No.338/3 measuring 0.61.5 Hectre in Madam Village of Tiruttani Taluk in favour of their Vanniyakula Kshatriyar Dharma Sathira Sangam based on a Thamara Paathiram said to have been given by the King of Karvatti Town Maha Mandaleeswara Kadari Salva Makka Raju on 01.07.1929. The land is issue is classified as Edikulam (Pond) Poramboke in the Village Accounts. Following his application dated 26.06.2018, the petitioner has filed this Writ Petition before this Hon'ble Court. The land is water body and it is used by general public as water source in and around the pond.

3. With respect to avernments in para 6 and 7 of the affidavit, it is submitted that the land in Survey No.338/3 for which the assignment is requested by the petitioner is classified as Edikulam (Pond) poramboke in the revenue accounts. The Government have banned the assignment of water course poramboke land in G.O.Ms.No.41, Revenue Department dated 20.01.1987. Further, the ryotwari pattas granted in respect of private tank and Oorani to the private individuals during the time of settlement under the relevant provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act 1948 had also been cancelled by the amended section 14A(2) of the said Act. Hence, no private individuals issued ryotwari patta for the land classified as water course poramboke. It is further submit no such claim also made by any of the parties during settlement process and therefore it became final. The Hon'ble court in the landmark judgment in L.Krishnan Vs. State of Tamil Nadu reported in 2005-3-L.W.313 was pleased to order that all the encroachments in the water course porambokes should be evicted and they should also be restored to their previous position as classified in the revenue accounts. As such, the land in Survey No.338/3, classified as Edikulam in Madam Village cannot be assigned to the petitioner. An endorsement narrating the above facts in R.C.2000/2018/B1, dated 07.03.2018 has been sent to the petitioner by registered post with Acknowledgment date on 07.08.2018. The petitioner does not have any valid documents to prove their ownership for the land. The alleged document namely "Thamira Paathiram" does not have created any right to the petitioner since it is not a valid document."

10. Apart from the aforesaid judgment cited in the narration of the counter of the respondents, many number of orders have been repeatedly passed by this Court that, no water body shall be given by way of assignment or patta to any third party for any laudable purpose, however laudable it may be.

11. When that being so, since the tank in question is a water body and it is still as a water body, the same cannot be asked to be given patta in favour of anyone including the petitioner.

12. Moreover, if at all, the petitioner is a Society consisting of a particular community people, they cannot make any claim of Government water body for their exclusive utility. Under the provisions of the Constitution, it has been ensured that, all water bodies especially the public tanks or wells are concerned, that should be open to the general public and there can be no discrimination on the basis of caste for the purpose of utilizing the public tank or well.

13. When such constitutional mandate has been given, the present prayer sought for by the petitioner to seek for a patta of a public tank in favour of the petitioner is nothing but an unconstitutional move and moreover, even if it is not a public tank and only it is a water body, even then, no one can seek for patta much less the present petitioner.

14. Moreover, the petitioner's association is claimed to have been established only some time in the year 2006 and before that, how the present members of the petitioner's association had the exclusive use of the tank called "Etti Kulam" has not been averred anywhere in the affidavit and in support of their case, no document has been filed before this Court except the claim that, 300 years back, some assignment had been given to some community people.

15. Based on such claim allegedly taken place before 300 years ago, the present plea made by the petitioner cannot be accepted.

16. Moreover, if at all, any grant was given by Ex-ruler in the 18th century, the present petitioner cannot seek any inherited rights over the property, that too in a public tank for the petitioner's association, admittedly, established only on 14.01.2006.

17. Therefore, absolutely, there is no reason or justification for the present plea made by the petitioner. Therefore, the present request made through the representation dated 26.06.2018 to the respondents revenue authorities cannot be directed to be considered.

18. In that view of the matter, this Court is not inclined to accept the prayer sought for in this Writ Petition. Accordingly, this Writ Petition is liable to be dismissed, hence, it is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vji

To

1. The District Collector,
Tiruvallur District, Tiruvallur - 602 001.
2. The Revenue Divisional Office,
Tiruttani Division,
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Tiruttani, Tiruvallur District - 631 209.

+lcc to Government Pleader Sr No. 29568

W.P. No. 18686 of 2018

PL (CO)
PR (13/07/2021)

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