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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.29777 of 2019
and
W.M.P. No. 29674 of 2019

K.Duraisamy,
S/o. Kaliyaperumal Padayatchi

... Petitioner

Vs.

1.The District Collector,
Villupuram District,
Villupuram.

2.The Sub-Collector,
Kallakurichi.

3.The Tahsildar,
Chinnasalem.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to 3rd respondent's proceedings made in Na.Ka.E1/4318/2019 dated 31.01.2020 to quash the same and direct the respondents to grant assignment patta in favour of the petitioner, with respect to land comprised in S.No.250/14, over an extent of 0.07.5 ares in Thagam Theerthapuram Village, Chinna Salem Taluk, Kallakurichi District.

(Prayer amended as per order dated 29.06.2021 in W.M.P.No.12256 of 2020)

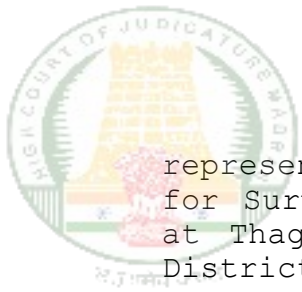
For Petitioner : Mr.M.Muthappan

For Respondents : Mr.K.M.D.Muhilan,
Government Advocate for R1 to R3

O R D E R

(The case has been heard through video conference)

Earlier, the Writ Petition has been filed seeking a direction directing the respondents to consider the petitioner's



representation dated 16.08.2019 and grant patta in his favour for Survey No.250/14 admeasuring an extent of 21 cents situated at Thagam Theerthapuram Village, Chinnasalem Taluk, Villupuram District.

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2. The grievance of the petitioner is that, the petitioner was in possession and enjoyment of poramboke land to an extent of 65 cents in Survey No.250/4. Thereafter, on his application, Patta has been granted to an extent of 45 cents, and subsequently, he has made a representation before the respondents seeking assignment for the remaining 20 cents of land, but his request was not considered. Hence, the present writ petition has been filed by the petitioner seeking to consider the representation seeking patta in respect of 20 cents.

3. Earlier, notice was ordered to the respondents. Pending Writ Petition, the 3rd respondent had passed an order in and by its proceedings No.Na.Ka.E1/4318/2019, dated 31.01.2020 rejecting the petitioner's request on the ground that the remaining extent of 0.07.5 ares equivalent to 20 cents has been used as pathway by the general public. Hence, the land cannot be assigned to the petitioner. Now, challenging the order, the petitioner has filed a petition to amend the prayer in this Writ Petition. Accordingly, the amendment petition is ordered.

4. Today, when the matter taken up for hearing, Mr.M.Muthappan, learned counsel appearing for petitioner would submit that, the petitioner was in possession of entire extent of 65 cents of land since 2001. In fact, no pathway is available in the land and except the petitioner, nobody is using the said land. But, without conducting any field inspection, based on the report of revenue inspector, the 3rd respondent Tahsildar has rejected the petitioner's claim on the ground that there is a pathway available in the land.

5. Per contra, Mr.K.M.D.Muhilan, learned Government Advocate appearing for respondents would submit that, even though earlier, the petitioner has sought for assignment for entire extent of 65 cents, after conducting field inspection, the 3rd respondent Tahsildar has granted patta in respect of 45 cents on the ground that the remaining extent of 20 cents being used as pathway by the general public. Thus, once again, the petitioner's representation was considered by the 3rd respondent and based on the report submitted by the Revenue Inspector, the 3rd respondent had come to a conclusion that the remaining extent of 20 cents was used as pathway by the general public. Hence, the assignment cannot be granted for the remaining extent of 20 cents and there is no error in the order passed by the 3rd respondent.



6. I have considered the rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate appearing for respondents and perused the records carefully.

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7. Originally, the petitioner has sought for assignment in respect of 65 cents, however, the 3rd respondent Tahsildar, after considering his request, has granted assignment in respect of 45 cents. So far as remaining extent of 20 cents is concerned, the 3rd respondent Tahsildar has clearly stated that it has been used as pathway by public and patta cannot be granted in respect of pathway. In the said circumstances, I find no error in the order passed by the 3rd respondent. As already the petitioner is having the benefit of enjoying 45 cents of Government land, he cannot seek for assignment in respect of a pathway. Therefore, I find no merit in this Writ Petition and the same is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rpp

To

1.The District Collector,
Villupuram District,
Villupuram.

2.The Sub-Collector,
Kallakurichi.

3.The Tahsildar,
Chinnasalem.

+1 cc to Mr.M.Muthappan, Advocate Sr.No.29925

+1 cc to the Government Pleader, Sr.No.30412

W.P.No.29777 of 2019

GPL (CO)
RVM(04/08/2021)