

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P.No.13014 of 2017
and
W.M.P.No. 13889 of 2017

Selvi

... Petitioner

vs

1.The District Collector,
Vellore District,
At Vellore.

2.The District Revenue Officer,
Vellore, Vellore District.

3.The Tahsildar,
Arcot Taluk,
Vellore District.

4.The Village Administrative Officer,
Thimiri, Arcot Taluk,
Vellore District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from evicting or interfering or disturbing with the peaceful possession and enjoyment of the petitioner's agricultural property situated in Survey No.552/1, Thimiri Village, Arcot Taluk, Vellore District totally to an extent of 1.00 Acre except by due process of law.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mrs.A.Mathumathi
Special Government Pleader

O R D E R

This writ petition is field to issue a Writ of Mandamus, forbearing the respondents from evicting or interfering or disturbing with the peaceful possession and enjoyment of the petitioner's agricultural property situated in Survey No.552/1, Thimiri Village, Arcot Taluk, Vellore District totally to an extent of 1.00 Acre except by due process of law.

2. The petitioner states that the petitioner's father-in-law late Thiru.Ponnusamy Pillai was in enjoyment of land comprised in Survey No.552/1, Thimiri Village, Arcot Taluk, Vellore District measuring to an extent of 1.00 Acre for more than 55 years by doing cultivation. It is stated that in the year 1973, the petitioner's father-in-law gave a representation to the Thimiri Municipality to issue patta in his name and that the Thimiri Municipality by Resolution No.32, dated 28.05.1973, stated that they have no objection to issue patta in respect of the property in Survey No.552/1. It is further stated that the petitioner's father-in-law died on 09.01.2002 and that the property devolved on her husband and the petitioner's husband also died on 22.11.2003. Thereafter, the petitioner submitted representation dated 11.05.2017 before the first respondent for issuance of patta in her name. Again, the petitioner has given another representation dated 12.05.2017 to the second respondent for the illegal act committed by the third respondent and his subordinate officials. Based on the above representations, the petitioner has approached this Court by alleging that the third respondent herein threatened the petitioner to vacate and handover the possession of the property immediately.

3. Having regard to the documents produced by the petitioner, this Court is unable to grant any relief to the petitioner. The claim of the petitioner does not go well with the documents which she has relied upon. The fasili receipt produced by petitioner stands in the name of the petitioner's father-in-law who paid kist for some property for which patta was given to the petitioner's father-in-law vide Patta No.804. The petitioner admits that the property belongs to the Government and that she claims patta by virtue of long and continuous enjoyment of her father-in-law. The petitioner's father-in-law was never given any assignment. Merely because the petitioner is in enjoyment of the property for a long period, the Government cannot be directed to give any assignment or patta.

4. The petitioner relied upon the resolution passed by the local body expressing that they have no objection for grant of patta in favour of the petitioner's father-in-law. The petitioner's predecessors were paying B-Memo charges as per her own representation. Hence petitioner has admitted that the land belongs to Government. The petitioner may of course seek assignment from the Government, if she is otherwise eligible as a person in possession doing cultivation. There cannot be an order of injunction restraining the respondents from interfering with her enjoyment of possession for all the time to come. The petitioner in her representation requested the respondents to give patta in her favour.

5. In the said circumstances, this Court is not inclined to entertain the writ petition. However without prejudice to the action that may be taken against the petitioner, this Court is of the view that the respondents can be directed to consider the representations of the petitioner and pass appropriate orders on merits and in accordance with law.

6. Hence, the third respondent is directed to consider the representations of the petitioner. In case the encroachment is objectionable, it is open to the respondents to initiate action against the petitioner to evict her.

7. The land has been classified as Hill Poramboke as seen from Page No.1 of the typed set filed by the petitioner. If it is so, it is for the respondents to consider the petitioner's representations for grant of patta. It is possible that the petitioner's father-in-law might be enjoying the land as a ryot for a long time and that the petitioner's father-in-law could have obtained ryotwari patta if he had gone before the authorities concerned for grant of ryotwari patta under the Tamil Nadu Act 26 of 1948. Now it is open to the petitioner to go before the Civil Court to establish her title either as a person entitled to ryotwari patta or on the strength of her possession. However, this Court does not express any opinion on the merits of the contentions of the petitioner and the suit that may be filed by the petitioner may be decided uninfluenced by any of the observations of this Court.

8. Accordingly, the writ petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Vellore District,
At Vellore.

2.The District Revenue Officer,
Vellore,
Vellore District.

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3.The Tahsildar,
Arcot Taluk,
Vellore District.

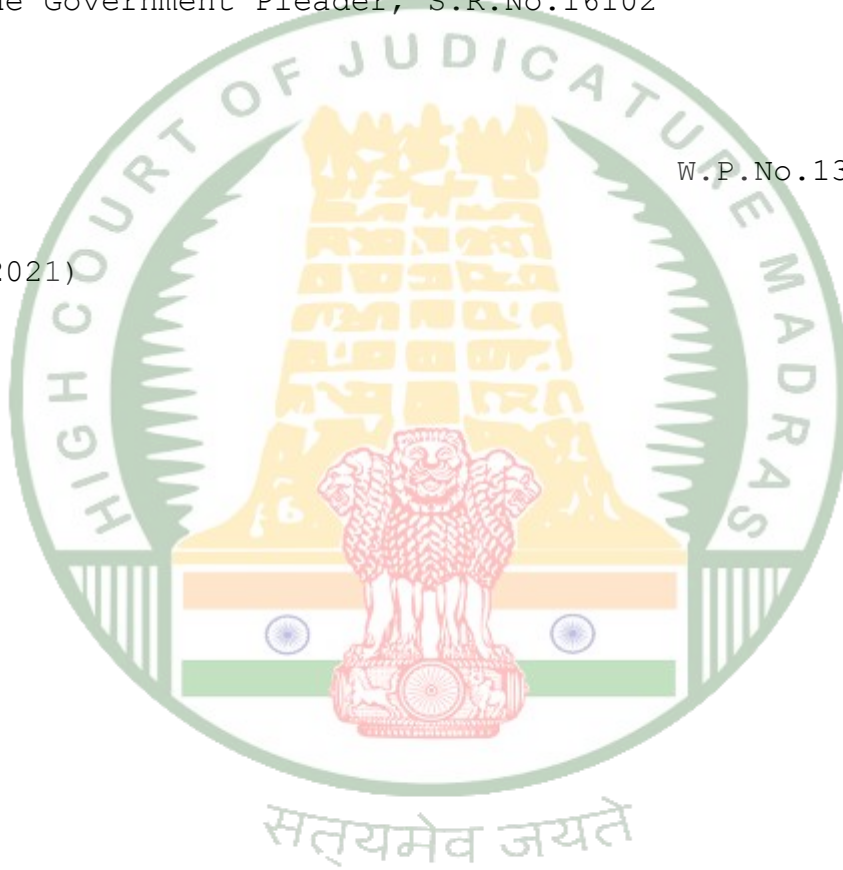
4.The Village Administrative Officer,
Thimiri, Arcot Taluk,
Vellore District.

+1cc to Mr.A.Rajesh Kanna, Advocate, S.R.No.15789

+1cc to the Government Pleader, S.R.No.16102

W.P.No.13014 of 2017

NR(CO)
KM(17/04/2021)



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