



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.9233 of 2015
and M.P. (MD) .No.2 of 2015

WEB COPY

Neelamegam

... Petitioner

Vs.

1.Government of Tamil Nadu
rep. by the Secretary,
Revenue Department, St. George Fort,
Chennai - 9.

2.The District Collector,
Tuticorin District,
Tuticorin.

3.The Tahsildar,
Ottapidaram Taluk,
Ottapidaram, Tuticorin District.

4.Subathra (died)

5.Ramakrishnan

... Respondents

(R5 was impleaded as the legal heir of the deceased 4th respondent as per order passed in W.M.P.(MD).No.9453 of 2016 dated 06.07.2021)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned patta No.1578, dated 15.06.2007 issued by the 3rd respondent in favour of the 4th respondent and quash the same and consequently direct the respondents to assign the land and issue patta in favour of the petitioner insofar as land in S.F.Nos.526/9 and 526/10 of Pachalankurichi Village, Ottapidaram Taluk, Tuticorin District as per the Government Order in G.O.(MS). No.555, Revenue Department (Ni.Mu.Na), dated 26.08.2006.

For Petitioner

: Mr.T.Vadivelan

For Respondents

: Mr.M.Lingadurai for R1 to R3

Government Advocate

Mr.K.Seemaraj for R5

R4 - Died

ORDER

This writ petition has been filed challenging the impugned patta issued in favour of the fourth respondent and for a consequential direction to the respondents to assign the land and



issue patta in favour of the petitioner with respect to the subject property in accordance with G.O.Ms.No.555, dated 26.08.2006.

2.The case of the petitioner is that his father was in possession and enjoyment of the property in S.F.Nos.526/9 and 526/10, which were classified as Government Poramboke. According to the petitioner a B-memo was also issued in favour of the father of the petitioner and thereby recognized the possession in the property.

3.It is stated that the property was put to cultivation and it was in possession and enjoyment of the father of the petitioner for nearly 45 years. Thereafter, the father of the petitioner died in 1999 and the petitioner as the legal heir became entitled to the property.

4.The grievance of the petitioner is that the third respondent has assigned the land in favour of the 4th respondent and patta has been granted in patta No.1578, dated 15.06.2007. Aggrieved by the same, the present writ petition has been filed before this Court.

5.Heard Mr.T.Vadivelan, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Government Advocate, appearing for the respondents 1 to 3 and Mr. K.Seemaraj, learned counsel appearing for the 5th respondent.

6.The third respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:

"4.I submit that the averments in para 2 of the affidavit is not true. Neither petitioner nor his father was in possession of the said property. "B" memo also nothing but eviction notice with penal charge for enjoyment, which will not confer any right to the petition. Hence, there is no documentary evidence or evidence to prove the petitioners case.

It is true that the Government has issued G.O.Ms.No.555, Revenue department, dated 26.08.2006 has been issued. As per the said scheme only landless poor people are entitled. But the petitioner father owned a land of 1.15.50 hectare land in S.F.No.530/4 at Panchalankurichi Village, Ottapidaram Taluk. His father Ponnusamy died in the year 1997. The same is now inherited by the petitioner Neelamegam "A" Register copy for the S.No.530/4 will reveal the same.

5.I submit that the averments in para 4 of the affidavit is denied as follows. It is true that the 4th respondent obtained assignment as per



G.O.Ms.NO.555, dated 26.08.2006, since the 4th respondent is eligible for the same. Since the writ petitioner was not in possession of the said land at the time of assignment to the 4th respondent. The recommendation of the Village Panchayat will not have any legal sanction in favour of the petitioner. The writ petitioner is not a competent person to claim patta in his favour.

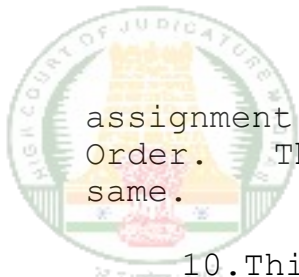
6.I submit that the averments in para 5 of the affidavit is not sustainable one. The 3rd respondent provided patta in favour of 4th respondent as per the guidelines in G.O.Ms.No.555, dated 26.08.2006. There is no violation in implementing the G.O.Ms.No.555. It is the Government Poramboke in which the petitioner has no legal right. Hence, there is no arbitrariness, unreasonableness in the act of the 3rd respondent.

7.I submit that the averments in para 6 and 7 of the affidavit is not sustainable one. It is submitted that the 4th respondent is in possession and enjoyment of S.F.Nos.526/9 and 526/10 in the Panchalankurichi Village. She is activating the punja land. There is no just cause to invoke article 226 of the Constitution of India. After assignment in Tk/8A/104/1416, dated 11.06.2006, mutation were effected in the revenue records in the name of the 4th respondent "A" Register and in the Adangal the name of the 4th respondent has been incorporated."

7.A careful reading of the counter affidavit filed by the third respondent shows that the petitioner will not come within the category of a landless poor. It has been specifically stated in the counter that the father of the petitioner had owned nearly 1.15.50 hectares of land in S.F.No.530/4 at Panchalankurichi Village. This property was also inherited by the petitioner after his demise. The third respondent has gone by the requirements as provided under G.O.Ms.No.555, dated 26.08.2006 and has assigned the land in favour of the 4th respondent, since he was recognized to be a landless poor.

8.In the considered view of this Court, the 4th respondent is already in possession and enjoyment of the property and it is stated in the counter affidavit that she is cultivating punja land. After the assignment of the land, the mutation has also been effected in the name of the 4th respondent.

9.This Court does not find any illegality in the third respondent assigning the land in favour of the 4th respondent. The



assignment has been made in accordance with the relevant Government Order. Therefore, there is no question of interfering with the same.

10. This writ petition is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

TM

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary, Government of Tamil Nadu,
Revenue Department, St. George Fort,
Chennai - 9.

2. The District Collector,
Tuticorin District,
Tuticorin.

3. The Tahsildar,
Ottapidaram Taluk,
Ottapidaram, Tuticorin District.

+1 CC to M/s.P.BANU PRASATH, Advocate (SR-21451[F] dated 07/07/2021)

+1 CC to M/s.SPL GP (SR-21517[F] dated 07/07/2021)

W.P. (MD) .No.9233 of 2015
06.07.2021

KMK (CO)
KB (19.07.2021) 4P 6C