



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.18675 of 2018

1.Gandhi

2.Vijayan

: Petitioners

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Tahsildar,
Devakottai Taluk, Sivagangai District.

3.The District Revenue Officer,
Collector Office Building,
Marudhupandian Nagar,
Sivagangai District.

4.The Revenue Divisional Officer,
Kottachira Office,
Devakottai, Sivagangai District.

: Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to issue house site pattas in favour of the petitioners based on their representations dated 19.06.2018 which relates to S.No.17/1, situated at Karandalpatti Village, Madavarayanpatti Group, Thirupathur Taluk, Sivagangai District.

For Petitioners

:Mr.S.Kameshwaran

For Respondents

:Mr.A.Thiyagarajan

Government Advocate

ORDER

According to the petitioners, they have been in occupation of a property situated at S.No.17/1, in Karandalpatti Village, Madavarayanpatti Group, Thirupathur Taluk, Sivagangai District, which is classified as Punja land in revenue records. The petitioners have constructed their houses and residing in that place for last four decades and was also carrying on their agricultural work. The first petitioner's husband died in 1995 and after his demise, she and her family members were continuing with their agricultural work and earning their livelihood through



the same. According to the petitioners, local taxes have been paid periodically, including electricity charges.

2.As the petitioners having continuous possession of the land under their occupation, they have been issued Family Cards, Voter Identity Cards, etc. They have submitted a representation on 19.06.2018 for grant of patta in their favour. Despite several reminders to the respondents for disposal of the representation, there was no action forthcoming from the respondents. Hence, the petitioners are before this Court seeking issuance of Mandamus.

3.Notice was ordered in the Writ Petition and Mr.A.Thiyagarajan, learned Government Advocate has entered appearance on behalf of the respondents.

4.A counter affidavit has been filed on behalf of the second respondent. According to the counter affidavit, the petitioners have encroached upon the Government property and they have no right whatsoever to claim patta in order to regularise their occupation. According to the counter affidavit, since these petitioners are found to be the encroachers upon the Government land, the respondents are proposing to initiate action to remove the encroachment of the petitioners. The present Writ Petition filed by the Writ Petitioners is a preemptive action to prevent the respondents from initiating any action to remove the encroachment of the petitioners. According to the counter affidavit, the petitioners have not come up with clean hands and they have suppressed several crucial facts.

5.In paragraph 7 of the counter affidavit, it is stated that the Government have introduced a scheme for issuing house site patta for landless poor people. But, these petitioners, according to the respondents, do not come under this category and they have properties in their spouses' name and they are seeking issuance of patta by concealing the fact that the property being owned by them and not entitled to issue of a patta meant for landless poor people. Therefore, the respondents averred that the writ petition lacks complete merits and substance and liable to be dismissed.

6.When the matter is taken up for hearing today, this Court finds that the specific factual averments refuting the claim of the petitioners have not been denied by way of any reply or rejoinder to the counter affidavit filed on behalf of the respondents. On the other hand, the learned Counsel for the petitioners would attempt to argue on the basis of the averments contained in the affidavit filed in support of this Writ Petition.

7.This Court is unable to appreciate as to how in the face of clear averments contained in the affidavit filed on behalf of the



respondents, the prayer of the Writ Petition can be granted. In fact, this Court, even otherwise finds that the averments contained in the affidavit are too sketchy and do not coherently make out any legal sense for considering the claim of the petitioners. Except stating that they have been under occupation of the subject property for four decades, nothing has been spelt out in material and specific terms in support of the claim of the petitioner. On the other hand, on behalf of the respondents, it has been clearly stated that the petitioners are encroachers and trespassers and in the absence of any specific denial, this Court has to necessarily accept the averments contained in the counter affidavit and to hold that the petitioners are not entitled to the relief prayed for in the Writ Petition.

8.Hence, this Writ Petition is dismissed as without being any material. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

- 1.The District Collector,
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