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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.27298 of 2013
and
M.P.Nos.1 of 2013 & 1 of 2015

Mr.G.Sasi

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Revenue,
Fort St.George,
Chennai - 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram Town and District.
3. The Revenue Divisional Officer,
Kancheepuram District,
Kancheepuram.
4. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
5. The Tahsildar,
Thiruporur,
Kancheepuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents to evict the petitioner from S.No.237/1 of Alathur Village, Thiruporur Taluk, without following the due process of law.

For Petitioner : Mr.P.Thiagarajan

For Respondents : Mr.T.Chezhiyan, AGP



O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus to forbear the respondents from evicting the petitioner from S.No.237/1 of Alathur Village, Thiruporur Taluk, without following due process of law.

2. The case of the petitioner is that he is in occupation of a portion of land comprised in S.No.237/1, measuring an extent of 25 cents, situated at Alathur Village, Thiruporur Taluk, Kancheepuram District for more than 50 years. The petitioner has put up a house in the said land and the same was assessed to house tax and he has also obtained electricity service connection. Similarly, his family members are also in occupation of a portion of land measuring an extent of 20 cents each in the above said land in S.No.237/1 for agricultural purposes. Further, there are eight other families who are in occupation and enjoyment of a portion of land in the above said S.No.237/1. Originally, the entire area had been waste land and the village people for years together worked and made the land suitable for agriculture.

3. While so, in the year 1988, some of the villagers tried to disturb the possession of the petitioner and his family members. Therefore, the petitioner's father filed a Suit in O.S.No.849 of 1988 on the file of District Munsif, Chengalpattu and the said suit was decreed in favour of the petitioner's father. Pursuant to which, the petitioner's father approached the respondents and sent various representations for grant of patta, however, there was no response. Aggrieved by the same, one Chandramathi, wife of the petitioner's brother, filed a Writ Petition in W.P.No.12593 of 2010 and this Court, vide order dated 07.07.2010 issued a direction to the District Collector to consider the petitioner's representation dated 27.06.2010 within a period of eight weeks, however, despite the order of this Court, no orders have been passed by the respondents. While such being the case, on 28.09.2013, the respondents started to remove the fence in the petitioner's place, however, the same was stopped by the petitioner and his family members. Further, the petitioner and other persons were directed to appear before the 1st respondent on 30.09.2013, however, thereafter, no further steps has been initiated by the respondents. Hence, aggrieved by the inaction of the respondents, the present Writ Petition is filed.



4. The learned counsel for the petitioner submitted that based on the Government Order in G.O.Ms.No.854 Revenue Department dated 30.12.2006, the Government has taken a policy decision to assign the land to the occupants who are in occupation for more than 5 years and prescribed the terms and conditions and the Board Standing orders also provides for assigning the land to occupiers and the authorities are bound to consider the petitioner's representations in the light of the Government orders, however, the same were not considered and no orders have been passed on the same. Hence, it would suffice, if this Court issues direction to the respondents to consider the petitioner's representations in the light of the said Government order and issue patta in favour of the petitioner and consequent direction to the respondents not to evict the petitioner from the above said land.

5. The learned Additional Government Pleader appearing on behalf of the respondents submitted that, even as per Government orders, the landless people / occupiers are entitled for patta only in respect of 3 cents, however, in the present case, the petitioner has encroached a land measuring an extent of 25 cents, which is not acceptable. He further submitted that the encroachments in the above said land were removed by the respondents, however, he fairly submitted that, it is not known whether the petitioner is one among the encroachers who were evicted on 01.10.2013 from the said encroachment. Further, the aforesaid Survey number is classified as grazing ground (Meikkal) in the revenue records, and the said land is assigned for the purpose of constructing Adi-Dravida Middle School, Panchayat Office, Anganwadi building, VAO office, Self help group building, Toilet, Gengaiamman Temple, over head tank and library building and also the proposal for Government Law College. Therefore, the request of the petitioner cannot be considered and accordingly, he prays for dismissal of this Writ Petition.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. The facts in the present case is that the disputed land is classified as Meikkal Poramboke and the petitioner claims that, the petitioner and his family members were in occupation of a portion of the above said land comprised in S.No.237/1, which was initially a waste land and the petitioner claims that they worked for more than 50 years to make the aforesaid lands cultivable. Further, the petitioner is relying on the house tax



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receipts, electricity card and ration card and adangal. However, what lands may be assigned to the landless people and what are not are provided under R.S.O.15 and for better appreciation, the relevant portion is extracted as follows:-

Only land, the assignment of which is unobjectionable shall be assigned. Such lands may be assigned to individuals where they are in isolated bits or in compact blocks. Lands acquired for communal purposes shall not be assigned. Grazing ground poramboke shall not be assigned unless there is

sufficient grazing ground (other than Panchayat and Reserved Forests) available to serve the needs of cattle, without specific orders from the Government, Tank-bed lands should on no account be assigned without consulting the appropriate technical officer including the Chief Engineer and without specific orders from the Government. Lands close to village sites which are likely to be required for communal purposes or provision of house sites should not be assigned. Applications for assignment of lands with dense valuable forest growth should be rejected. Such lands may be included in the Prohibitory Order Book.

8. In the present case, the petitioner could not establish before this Court that there are sufficient grazing ground available to fulfil the needs of the cattles and further, in the counter affidavit filed by the Government, it is stated that the petitioner and others are not entitled for the aforesaid lands and they were evicted on 01.10.2013. While such being the case, the petitioner without challenging the said eviction order, has filed the present Writ petition, to forbear the respondents from evicting the petitioner from the said land is not sustainable. Hence, the prayer sought for by the petitioner cannot be acceded to.

9. Further, this Court perused the counter affidavit, in which, it was stated that the Government has assigned the said disputed grazing poramboke / Meikal poramboke for the purpose of Adi-Dravida Middle School, Panchayat Office, Anganwadi building, VAO office etc. However, it is pertinent to note that, in view of the R.S.O.15, the Government has no power to alienate the grazing / Meikal poramboke lands, as they are very much needed for cattles, and the same cannot be alienated in favour of third



party and also for other public purposes, such as the ones proposed. The Government has power only to alienate the non-objectionable land and not the objectionable land. The present lands cannot be alienated for any other purpose and has to be maintained as Meikal poramboke.

10. For the reasons aforesaid, the Writ Petition is dismissed with the above observations and directions. Though the respondents claim that the encroachments have been evicted, the petitioner claims that no one is evicted. Hence, this Court directs the respondents to remove all the encroachments in the said Survey No.237/1 and the revenue officials are directed to maintain the said land as Meikal poramboke / grazing poramboke for the well being of the cattles, without any change in their characteristics. Consequently, connected miscellaneous petitions are also dismissed. No Costs.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

jd/skt

To

1. The Secretary to Government,
State of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai - 600 009.
2. The District Collector,
Kancheepuram District,
Kancheepuram Town and District.
3. The Revenue Divisional Officer,
Kancheepuram District,
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Kancheepuram District,
Kancheepuram.



5. The Tahsildar,
Thiruporur
Kancheepuram District.

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+1cc to Mr.P.Thiagarajan, Advocate Sr.15335
+1cc to the Government Pleader Sr.15890

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