



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.11427 of 2022

D.Srinivasan,
rep. by his Power Agent A.Saraswathi

..Petitioner

Vs

1. The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Revenue Department,
Fort St. George, Chennai.
2. The Director of Town Panchayat,
Directorate of Town Panchayat,
Kuralagam, Chennai-108.
3. The District Collector,
Kancheepuram District.
4. The Director,
Directorate of Municipal Administration,
R.A. Puram, MRC Nagar,
Chennai.
5. The Revenue Divisional Officer,
Tambaram Division, Tambaram.
6. The Tahsildar,
Pallavaram Taluk, Chrompet,
Chennai-44.
7. The Commissioner,
Kundrathur Municipality,
Kundrathur,
Chennai-69.

..Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records pertaining to the impugned order dated 15.07.2021 in



Na.Ka.No.2923/2021/A3 passed by the third respondent and quash the same and consequently direct the third respondent to issue patta for the land measuring 1.48 acres in Survey No.105, Kundrathur Village, Kancheepuram District in the light of the order passed by the first respondent in G.O.Ms.682 dated 18.03.1975.

For the Petitioner : Mr.V.Jayaprakash Narayanan

For the Respondents : Mr.P.Muthukumar
State Government Pleader
assisted by
Mrs.R.Anitha
Spl. Government Pleader
for respondent Nos.1 to 7

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition has been filed to challenge the order dated 15.07.2021, whereby the application for grant of patta was considered and decided by a detailed and speaking order. It was pursuant to the direction of this Court dated 15.02.2021 in W.P.No.3318 of 2021 filed by the petitioner. The District Collector, Kancheepuram did not find any ground for grant of patta, as the land comes under the belt area of Chennai Metropolitan City. It is also keeping in mind that the land in question is to be used for construction of a Taluk Office.

2.Learned counsel for the petitioner submitted that the land in question was assigned to the petitioner and for that, a reference of the so-called assignment order dated 10.07.1944 was given. A reference of the alleged assignment order dated 18.03.1975 has also been given to indicate that the land in question was assigned to the petitioner and, thus, he was entitled to seek patta. The District Collector, ignoring all relevant facts, passed the impugned order.

3.Further case of the petitioner is in reference to the order of this Court passed in the earlier writ petition being W.P.No.3318 of 2021, wherein certain observations are said to have been made favourable to the petitioner. Ignoring the aforesaid, the District Collector rejected the representation made by the petitioner for grant of patta. The petitioner has even made a reference of the revenue record to prove his long possession of the land in question cultivating mango and coconut trees.Thus, on all the grounds referred to above, a prayer was



made for grant of patta to the petitioner, while quashing the order passed by the District Collector challenged herein.

4. We have considered the submissions made by learned counsel for the petitioner and scanned the matter carefully.

5. The claim for grant of patta has been made pursuant to the assignment order dated 10.07.1944. A perusal of the aforesaid order does not show it to be assignment, rather, it was a grant in favour of the petitioner's grandmother for cultivation of the land for five years on a condition that the applicant would not make any perpetual claim for assignment. Despite a condition therein, learned counsel for the petitioner referred to it as an order of assignment to claim patta after quashing the order of the District Collector.

6. The second order stated to be an assignment is dated 18.03.1975, where recommendation favourable to the applicant Duraikannu (father of the petitioner) was made. We do not find any assignment in favour of the father of the petitioner. The recommendation dated 18.03.1975 cannot be considered to be an assignment order when it is only to make a recommendation to the Government to assign the land. In the light of the aforesaid also, we do not find that the petitioner has satisfied this Court to claim his right for grant of patta.

7. The fact now remains about the possession of the petitioner to claim right, though according to the competent authority, it does not exist with the petitioner. In any case, we have perused the revenue record (Adangal) for Fasli 1419, wherein the name of the petitioner has not been given to prove the possession. Rather, what has been indicated in Column 19 is that "single person - plantain, mango, coconut" and in Column 18, it has been stated as "kalam" (threshing). Thus, the petitioner has not even proved his possession on the land in question. An elaborate discussion of all the issues has been made by the District Collector in reference to the earlier litigation initiated by the petitioner as well as the litigation by others to remove the encroachment and the directions given by this Court thereupon.

8. Taking into consideration the factual issues, we do not find that the petitioner could prove his right to seek patta and it cannot be only based on the recommendation for assignment. An elaborate discussion qua the nature of the land has been given in the impugned order, as otherwise, patta cannot be granted for a very valuable land now coming under the belt area of Chennai Metropolitan City. The impugned order otherwise make a reference of the order dated 4.8.2017 passed in W.P.No.19623 of 2017 for removal of encroachment. Since the impugned order



states that the petitioner is not in continuous possession and enjoyment, this Court cannot enter into such factual issues while exercising jurisdiction under Article 226 of the Constitution of India.

WEB COPY

9. For all the reasons given above, we are unable to accept the prayer to challenge the order dated 15.07.2021. The writ petition fails and it is dismissed. The interim order is vacated and W.M.P.No.13741 of 2022 is allowed. There will be no order as to costs. Consequently, W.M.P.Nos.10968, 10971, 14986, 14992 and 14995 of 2022 are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

bbr

To:

1. The Principal Secretary to Government,
Revenue Department, Fort St. George, Chennai.
2. The Director of Town Panchayat,
Directorate of Town Panchayat,
Kuralagam, Chennai-108.
3. The District Collector,
Kancheepuram District.
4. The Director,
Directorate of Municipal Administration,
R.A. Puram, MRC Nagar, Chennai.
5. The Revenue Divisional Officer,
Tambaram Division, Tambaram.
6. The Tahsildar,
Pallavaram Taluk, Chrompet, Chennai-44.
7. The Commissioner,
Kundrathur Municipality,
Kundrathur, Chennai-69.

+1cc to M/s.V.Jayaprakash Narayanan, Advocate, S.R.No.37558

+1cc to the Government Pleader, S.R.No.38201 & 37316

W.P.No.11427 of 2022

KK(CO)

RGA(30/06/2022)