

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.03.2022
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22418 of 2014
And
M.P.Nos.1 and 2 of 2014

1.Rathinasamy
2.Kanjamalai
3.K.Venkatesan

... Petitioners

Vs.

1.The Tahsildar,
Mettur Taluk,
Mettur Dam - 636 401,
Salem District.

2.The Revenue Divisional Officer,
Mettur Dam - 636 401,
Salem District.

3.The District Revenue Officer,
Salem District,
Salem.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the third respondent in her office proceedings Ref.No.Na.Ka.4888/2010, K2 dated 19.01.2011, quash the same and direct the third respondent to pass necessary orders assigning the lands measuring 1.62.0 hectares comprised in S.No.77/8, Navapatti Village, Mettur Taluk, Salem District in favour of the petitioners within the time that may be fixed by this Hon'ble Court.

For Petitioners : Mr.P.Mani
For Respondents : Mr.A.Anandan
Government Advocate

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the order passed by the third respondent in her office proceedings Ref.No.Na.Ka.4888/2010, K2 dated

19.01.2011, quash the same and direct the third respondent to pass necessary orders assigning the lands measuring 1.62.0 hectares comprised in S.No.77/8, Navapatti Village, Mettur Taluk, Salem District, in favour of the petitioners within the time that may be fixed by this Court.

2.The case of the petitioners is that the first petitioner is an Ex-Service man who served in the Indian Army. While he was in service, lands measuring 1-62-0 hectares comprised in S.No.77/8, Nawapatti Village, Mettur Taluk, Salem, was allotted to him, however, assignment was not given to them. Hence, the petitioners made application to the respondents requesting assignment of the said land. Since there was no action, the petitioners filed W.P.No.40352 of 2002 before this Court seeking direction to the respondents to grant patta. During the pendency of the said writ petition, the respondents tried to evict the petitioners and hence, the petitioners filed W.P.No.28310 of 2007 seeking to forbear the respondents from evicting the petitioners till orders are passed on their representation for assignment of the land. This Court vide order dated 10.11.2009 disposed of both the writ petitions by directing the third respondent to dispose of the petitioners representation. Thereafter the impugned order came to be passed rejecting the petitioners request for assignment of the land on the ground that the said land is situated adjacent to the forest land. Hence, this writ petition.

3.The learned counsel appearing for the petitioners submitted that petitioners 1 and 3 are the sons of the second petitioner. He further submitted that during the pendency of this writ petition, the second petitioner passed away.

4.The learned counsel appearing for the petitioners further submitted that initially on the application made by the petitioners, the Zonal Deputy Tahsildar inspected the land and recommended for assignment of 0-80-0 hectares to the first petitioner; 0-40-0 hectares to the second petitioner and 0-40-0 hectares to the third petitioner. He further submitted that till date the petitioners possession is not disturbed and they are in continuous possession and enjoyment of the lands, however, the impugned order was issued which is not sustainable one.

5.The learned counsel appearing for the petitioners further submitted that similarly situated persons who are living adjacent to the forest area were given house site patta. Hence, the petitioners are entitled for assignment patta.

6.The learned Government Advocate appearing for the respondents, referring to the counter affidavit filed by the first respondent, submitted that the disputed land is classified

as Karadu Poromboke and no assignment can be given to any one. The disputed land was not allotted to the petitioners as stated by them. Navapatty Village Panchayat is in possession of the land and the petitioners are not in possession of the land. The second petitioner has passed away and the other petitioners are living in well status and they are not entitled for free patta or assignment patta.

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

8. The petitioners claim that the first petitioner is an Ex-Service man who served in the Indian Army. While he was in service, lands measuring 1-62-0 hectares comprised in S.No.77/8, Nawapatti Village, Mettur Taluk, Salem, was allotted to him, however, no document was produced before this Court to show that the disputed land was allotted to the first petitioner under Ex-Serviceman Quota.

9. The petitioners made application to the respondents requesting assignment of the disputed land. Since there was no action, they filed W.P.No.40352 of 2002 before this Court seeking direction to the respondents to grant patta. Since the respondents tried to evict the petitioners from the land, during the pendency of the said writ petition, the petitioners filed W.P.No.28310 of 2007 seeking to forbear the respondents from evicting the petitioners till orders are passed on their representation for assignment of the land. This Court vide order dated 10.11.2009 disposed of both the writ petitions by directing the third respondent to dispose of the petitioners representation. Thereafter the impugned order came to be passed.

10. Perusal of impugned order reveal that major portion of the disputed land is situated in the reserve forest and remaining portion of the disputed land is situated adjacent to the reserve forest. The said land is classified as Karadu [assessed dry waste] and as a matter of right, no one can claim assignment patta for the said land. Even as per Clause 15 of the Revenue Standing Order, assignment patta will be granted only for un-objectable land.

11. It is represented by the learned counsel appearing for the petitioners that similarly situated persons who are living adjacent to the forest area were given house site patta. Hence, the petitioners are entitled for assignment patta. This Court perused the information given by the Tahsildar, Mettur, dated 07.05.2012 and Revenue Divisional Officer, Mettur, dated 12.05.2012 to the petitioner with regard to patta granted to similarly situated persons. They reveal that some of the house site patta was granted to persons living adjacent to reserve forest area, however, 95% of assignment was given to persons

living beyond 2 links. If a person occupies within 2 links of the reserve forest area, they are not entitled for assignment patta. The disputed land is within 2 links from the reserve forest area which is objectionable land [பாலமலை ஒதுக்கப்பட்டவன்]. Hence, the petitioners cannot claim assignment of the land as a matter of right.

12.In view of all the above, the writ petition is dismissed as abated as against the second petitioner and dismissed as against petitioners 1 and 3. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Tahsildar,
Mettur Taluk,
Mettur Dam - 636 401,
Salem District.
- 2.The Revenue Divisional Officer,
Mettur Dam - 636 401,
Salem District.
- 3.The District Revenue Officer,
Salem District, Salem.

W.P.No.22418 of 2014
And
M.P.Nos.1 and 2 of 2014

gpl(CO)
A.SK(12/04/2022)