IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.25731 of 2014

Gunasekaran ...Petitioner

Vs.

1. The District Revenue Officer, Cuddalore.
2. The Revenue Divisional Officer, Vridhachalam.
3. The Tahsildar, Tittakudi.
4. Rajakumari ...Respondents

Petitions filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorari call for the records in proceedings of the first respondent in Na.Ka.No.V3/15780/2013 dated 12.03.2014 and quash the same as illegal, incompenent and unconstitutional.

For Petitioner : Mr. V.Ragavachari

For Respondent : Mr. M.Murali RR1 to 3
Mr.T.Dhanasekaran R4

O R D E R

This petition has been filed to quash proceedings of the first respondent in Na.Ka.No.V3/15780/2013 dated 12.03.2014.

2. The case of the petitioner is that the lands bearing S.Nos.552/12A1 and 552/12A2 at Thollar Madura Senkamedu Village, Tittakudi Taluk, Cuddalore District are absolutely belong to the petitioner. The petitioner and his family members are enjoying the property for several decades. The petitioner is using the land in S.No.645/2, which is a government poromboke land, to access the petitioner's land and there is no other way to reach the petitioner's land. Similarly, the neighbours have also no other way to access to their lands. During the year 2012, the 4th respondent had attempted to prevent the use of the property. Thereafter, the Tahsildar, Tittakudi in his proceedings had issued patta on 30.06.2005 to the 4th respondent in respect of

the land bearing S.No.645/2 to an extent of 00072 sq. mt. And to her husband an extent of 00115 sq. mt. In S.No.645/1. Challenging the same, the petitioner made representation to the second respondent on 07.12.2012. After conducting enquiry, the second respondent set aside the patta which was granted in favour of the 4th respondent and her husband. As against the said order, the 4th respondent preferred an appeal before the first respondent. The first, without understanding the case, reversed the order of the second respondent by the order dated 12.03.2014. To quash the said proceedings, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that initially, the Tahsildar issued free house site patta in favour of the 4th respondent and her husband. Admittedly, the Tahsildar have no power to issue patta in respect of the poromboke land, particularly when it is used as a lane continuously for over several decades. The learned counsel further submitted that the assignment granted infavour of the 4th respondent is contrary to the Section 21 of the Revenue Standing Orders. The first respondent failed to appreciate that the assignment had been granted to the 4th respondent and her husband in respect of S.No.645/2 and 645/1 respectively. As per the rules, both of them are from the same family and they are ineligible for getting any benefits from the Government. The free house site patta can be granted to a maximum extent of 3 cents alone to a family. Therefore, the learned counsel prays that the impugned order passed by the first respondent has to be quashed and allow this petition.

4. Per contra, the learned counsel for the 4th respondent submitted that admittedly, the public way is situated in S.No.645/5 whereas the patta was granted in favour of the 4th respondent is 645/2. The learned counsel further submitted that S.No.645/2 is classified as Natham and the said property is in possession and enjoyment of the 4th respondent for more than a decade. Considering the possession, the said patta was granted. The patta granted in favour of the 4th respondent is not under Revenue Standing Orders and the same was given under the 'Grama Natham Scheme'. The petitioner has not produced any records that the said S.No.645/2 is classified as pathai poromboke. In the absence of any document, interfering the order passed by the first respondent is against the law. Hence, the learned counsel prays to dismiss the petition.

5. The learned Government Advocate submitted that in respect of S.No.645/2 is classified as Natham. The patta was

granted in favour of the 4th respondent under the Grama Natham Scheme. Hence, the first respondent had rightly passed the impugned order and the same does not warrant any interference of this Court and the writ petition is liable to be dismissed.

6. Heard, learned counsel for the petitioner, the learned Government Advocate and the learned Counsel for the 4th respondent and perused the materials available on records.

7. It is not disputed that the land in S.No.645/2 is classified as grama natham and therefore, this Court cannot assume that the Government is the owner of the property. Unless the property is a Government land or a poramboke land, the Government cannot initiate summary proceedings for evicting anyone by cancelling the patta. In the present case, the assignment patta was granted in favour of 4th respondent in the year 2005 and it is also seen that the cancellation of assignment patta was initiated beyond the period of three years. In the present case, the proceedings were initiated only in the year 2012. The learned counsel for the 4th respondent fairly submitted that the patta granted in favour of the 4th respondent is not under Revenue Standing Orders and the same was given under the 'Grama Natham Scheme'. The petitioner has not produced any records to prove his claim. The learned Government Advocate has also submitted that the said land is classified as grama natham. Though there are various grounds raised in the Writ Petition, this Court is of the view that the first respondent is rightly passed the impugned order which cannot be interfered by this Court.

8. In the overall circumstances, this Court is unable to find any error in the order of the District Collector, rejecting the representation of the petitioner seeking to cancel the patta in favour of the 4th respondent. This Court finds no merit in the writ petition and it is accordingly, dismissed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Rli

To
1. The District Revenue Officer, Cuddalore.

2. The Revenue Divisional Officer, Vridhachalam.

3. The Tahsildar, Tittakudi

+1 CC to Mr.K.Mutharaiyan, Advocate sr 10143.
+1 CC to Mr.V.Raghavachari, Advocate sr 9707
+1 CC to The Special Government Pleader sr 10250.

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SKM(CO)
SP(21/04/2022)