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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.25730 OF 2021

AND

W.M.P.NO.27167 OF 2021

G.Balathandayutham

... Petitioner

-Vs-

1. The Additional Chief Secretary /
Commissioner of Land Administration,
Chepauk, Chennai-600 005.
2. The District Collector,
Perambalur District,
Perambalur.
3. The District Revenue Officer,
Salem District, Salem.
4. The Revenue Divisional Officer,
Perambalur,
Perambalur District.
5. The Tahsildar,
Veppanthattai Taluk,
Perambalur District.
6. The Block Development Officer,
Veppanthattai Panchayat Union,
Veppanthattai,
Perambalur District.
7. Murugesan

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings of the first respondent in Proc.No.K4/17017/2018,



dated 25.10.2021 in relation to the Grama Natham Property in Survey No.403/2, petitioner's land measuring an extent of 969 sq.ft as concern out of 13024 sq.ft land (1210 sq.metre) situated at Kaikalathur Village, Veppanthattai Taluk, Perambalur District and quash the same as illegal and consequently direct the respondents 1 to 6 not to interfere in his purchased Grama Natham property measuring an extent of 969 sq.ft in Survey No.403/2, situated at Kaikalathur Village, Veppanthattai Taluk, Perambalur District.

For Petitioner : Mr.R.Venkatesulu

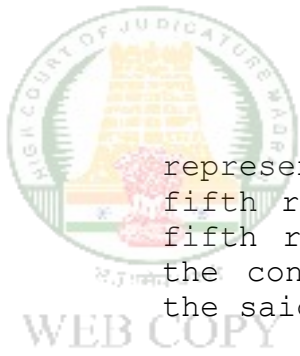
For R1 to R5 : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, to call for the records of the proceedings of the first respondent in Proc.No.K4/17017/2018, dated 25.10.2021 in relation to the Grama Natham Property in Survey No.403/2, petitioner's land measuring an extent of 969 sq.ft as concern out of 13024 sq.ft land (1210 sq.metre) situated at Kaikalathur Village, Veppanthattai Taluk, Perambalur District and quash the same as illegal and consequently direct the respondents 1 to 6 not to interfere in his purchased Grama Natham property measuring an extent of 969 sq.ft in Survey No.403/2, situated at Kaikalathur Village, Veppanthattai Taluk, Perambalur District.

2. Heard Mr.R.Venkatesulu, learned counsel appearing for the petitioner and Mr.P.Baladhandayutham, learned Special Government Pleader appearing for the respondents 1 to 5.

3. The case of the petitioner is that the petitioner purchased the property to the extent of 969 sq.ft, comprised in Survey No.403/2, situated at Kaikalathur Village, Veppanthattai Taluk, Perambalur District, from one Velayutham, by a registered sale deed, dated 31.01.1994, registered vide Document No. 59 of 1994. His vendor purchased a small portion of the property by the registered sale deed, dated 05.03.1984, registered vide Document No. 124 of 1984 and he conveyed along with his ancestral property altogether measuring 969 sq.ft. Thereafter, a bus stand was developed in the said village and all the adjacent land owners converted the residential building to a commercial use. A portion of the petitioner's house was converted into a shop and he is running a business of hardware and electrical. When the petitioner started reconstruction, a



representation was made by the seventh respondent before the fifth respondent. On the basis of the said representation, the fifth respondent inspected the subject property and interrupted the construction and instructed not to put up any building in the said property.

4. Aggrieved by the same the petitioner made a representation to the Revenue Officials and the same was not considered and as such the petitioner approached this Court by way of a Writ Petition in W.P.No.15569 of 2016. This Court directed the fourth respondent to consider the representation and pass orders within a period of eight weeks. However, the fourth respondent rejected the claim of the petitioner by an order dated 30.11.2016 and aggrieved by the same the petitioner preferred an appeal before the third respondent. The fourth respondent rejected the claim of the petitioner for the reason that the petitioner had encroached the subject property and the property comprised in Survey No.403/2 stands in the name of a bus stand. However, the third respondent did not dispose of the appeal and as such, the petitioner again approached this Court in W.P.No.9538 of 2017 and this Court directed the third respondent to dispose of the appeal filed by the petitioner on merits and in accordance with law by an order dated 07.02.2017. The third respondent passed an order on 03.05.2018 thereby, directed the sixth respondent to remove the petitioner from the subject property as encroacher. Aggrieved by the same, the petitioner filed a writ petition before this Court in W.P.No. 12107 of 2018 and this Court by an order dated 09.05.2018 directed the petitioner to file an appeal before the second respondent.

5. Accordingly, the petitioner preferred an appeal before the second respondent and the second respondent passed an order dated 19.06.2018 thereby confirming the order passed by the fourth respondent. Aggrieved by the same, the petitioner filed an appeal before the first respondent. While pending the appeal, the petitioner again approached this Court in W.P.No. 8776 of 2021 and this Court directed the first respondent to dispose of the appeal within a period of 12 weeks. The first respondent rejected the appeal by the impugned order in this writ petition.

6. The learned counsel for the petitioner would submit that the petitioner purchased the property ad-measuring 969 sq.ft of land comprised in Survey No. 403/2. Whereas, the first respondent passed an impugned order for the extent of 13024 sq.ft. The petitioner never claimed any right over the property comprised in Survey No. 34/8 and 34/9 and claimed right only over the property comprised in Survey No. 403/2, ad-measuring 969 sq.ft based on the sale deed. The petitioner is



in possession of the said property since from the year 1994 and his house is also assessed to the property tax and electricity charges. The said property is classified as Natham land and in fact several persons have constructed their respective houses and permanently residing there. The bus stand was constructed in a portion of Natham land comprised in Survey No. 403/2. Therefore, when the property which is classified as Natham is enjoyed by an individual for his residential purpose, the Government cannot treat it as a Sarkar Poramboke or Government land since it does not vest with the Government. The petitioner purchased the subject property which is classified as Natham, ad-measuring 969 sq.ft by the registered sale deed and even though he was not issued any notice before the conversion of the said land into Sarkar Poramboke in UDR.

7. Per contra, the first respondent filed counter and revealed that the seventh respondent had submitted a representation to the fourth respondent alleging that the bus stand of Pathangi Village in Kaikalathur (East) Majira of Veppanthattai Taluk is situated in the property owned by the Village Panchayat and adjoining the same on the southern side the petitioner along with four others have been doing business by putting up sheds. Now, the petitioner is attempting to put up a construction. On receipt of the said representation as directed by the fourth respondent, the fifth respondent conducted an inspection and thereby instructed the petitioner not to put up any construction. Simultaneously, the petitioner also submitted a representation dated 21.04.2016 seeking for patta for the subject property which is encroached by him. On enquiry, the fourth respondent recorded the statement of the seventh respondent and the documents produced by him as well as the written statement of the petitioner. The fourth respondent also received the report from the fifth respondent and the Village accounts and conducted a detailed enquiry and concluded that the subject land is classified in the village account as bus stand under Natham Nilavari Thittam and utilized by the general public. Therefore, the request made by the petitioner for issuance of patta was rejected. That apart, the encroachment made by the petitioner and four others in the bus stand should be removed by the 5th respondent by following due process of law. It was challenged by the petitioner before this Court and this Court directed the petitioner to file an appeal before the second respondent herein. As directed by this Court, the second respondent conducted a detailed enquiry and found that the petitioner had purchased the subject property comprised in Survey No. 403/2 ad-measuring 969 sq.ft from one Velayutham by the registered sale deed dated 31.01.1994 registered vide Document No. 59 of 1994 together with thatched house ad-measuring 100 sq.ft., whereas, his vendor namely V.Periyasamy



had purchased only to an extent of 330 sq.ft comprised in Survey No.403/2 from his Vendor i.e P.Vaithiyanathan. That apart, the four boundaries, extent, lie and location of the subject property also varied between the documents.

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8. In the enquiry, the general public also made statement and vehemently opposed to grant of patta to the petitioner and requested to remove the encroachment made by the petitioner in the subject land. Therefore, the second respondent rightly confirmed the proceedings of the third respondent and dismissed the appeal filed by the petitioner. Aggrieved by the same, the petitioner again filed a revision before the first respondent.

9. On receipt of the same, the first respondent conducted detailed enquiry in which the petitioner and the seventh respondent duly participated and filed their respective documents. The subject property is classified as Sarkar Poramboke - Bus stand and vested with the Government. The said land is in utility as public bus stand. The four boundaries mentioned in the documents do not tally to the field sketch. The Revenue Department is the custodian of the Government lands, the Natham Poramboke lands are vested with the State and meant for public utilities of the State and to be protected from encroachment. Therefore, the first respondent had rightly dismissed the revision filed by the petitioner.

10. In view of the above, this Court finds no infirmity or illegality in the orders passed by the first respondent and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Secretary /
Commissioner of Land Administration,
Chepauk, Chennai-600 005.



2. The District Collector,
Perambalur District,
Perambalur.
3. The District Revenue Officer,
Salem District, Salem.
4. The Revenue Divisional Officer,
Perambalur,
Perambalur District.
5. The Tahsildar,
Veppanthattai Taluk,
Perambalur District.
6. The Block Development Officer,
Veppanthattai Panchayat Union,
Veppanthattai,
Perambalur District.

+1cc to M/s.Usha Ramman, Advocate, S.R.No.806

+1cc to the Government Pleader, S.R.No.1117

W.P.No.25730 of 2021

PL(CO)
RLP(31/01/2022)