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W.P.No.34760 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

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People Welfare First Sector House Owners
Association (Regn.No.316 of 2016)
Rep by its President G.Balu,
No.157/1, Thamarai Street, 1st Sector,
Semathamman Nagar,
Koyambedu Commercial Complex South,
Chennai 600 017.

... Petitioner

Vs.

1. The District Collector,
Collector of Chennai,
Chennai District,
Chennai 600 001.

2. The Tahsildar,
Aminjikarai Taluk,
Office of Tahsildar,
Chennai 600 030.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the second respondent herein to issue patta based on the first respondent's letter dated 01.03.2018 to the individual members of the Association and to pass appropriate orders within a stipulated period.



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For Petitioner : M/S.M.Balasubramanian
For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus to direct the second respondent herein to issue patta based on the first respondent's letter dated 01.03.2018 to the individual members of the petitioner Association and to pass appropriate orders within a stipulated period.

2. The case of the petitioner is that the petitioner herein is an Association consists of 150 members, who are all originally in occupation of Survey Nos.120/1 and 120/2, situated at Koyambedu Village, Chennai. During the year 1987 Chennai Metropolitan Development Authority (in short, "CMDA") wanted the aforesaid property for construction of commercial Complex and the CMDA allotted alternative site to the occupants of aforesaid survey numbers in Survey Nos.73, 194, 69, 70, 71 and 72 in Semathamman Nagar 1st and 2nd Sector of certain extent in South side. As per the Government Order, a person, who is in continuous possession and occupation of the property for more than five years, is entitled for Patta.

However, in the present case, even after a lapse of 30 years of possession of



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the aforesaid property, the Patta was not granted in favour of the members of the petitioner's association. Further, the petitioner/association made a representation before the first respondent/District Collector on 22.02.2018, and on receipt of such representation, the first respondent forwarded the said representation to the second respondent/Tahsildar on 01.03.2018, with a direction to take necessary action and to report the same to the petitioner and the first respondent. Since the said representation was not considered by the second respondent, the petitioner filed the present Writ Petition.

3. The learned counsel for the petitioner would submit that the Government has allotted alternative site to the members of the petitioner association and it is the duty of the second respondent to issue Patta in favour of the petitioner. Accordingly, he prayed for passing appropriate orders.

4. The learned Additional Government Pleader appearing for the second respondent filed a detailed counter and he specifically stated that all the lands in Survey Nos.120/1 part, 120/2 part, 193/1 to 10 part, 195/1 part, 195/3 part, 194/1 part, 194/3 part, 194/4 part, 69/1 part, 70 part, 71 part and 72 part, have been classified as Circar Poramboke and Periya Eri and similarly the lands in following survey numbers viz., S.Nos.58/2, 59/1, 120/1,



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191/5 and 193/10 have been classified as Vaikkal, Periya Eri and Eri Ulvai.

Further, he submitted that the petitioner/association claiming Patta in respect of objectionable land, in which, issuing direction to the second respondent for issuance of Patta is not sustainable. Accordingly, he prayed for dismissal of the Writ Petition.

5. Patta can be granted under RSO 15 only in respect of unobjectionable land. In case of lands, where there is objection for grant of patta, be it through a private party or through certain provisions of the Revenue Standing Orders, patta cannot be granted. In the case on hand, patta has been sought for in respect of a water body/catchment land, for which patta cannot be granted under any provisions of the Revenue Standing Order. No authority is vested with any power to grant patta in respect of eri poramboke/water body/catchment area and the subject land, being a land of such nature, which falls within the objectionable land, no patta can be granted by the Revenue Authorities.

6. Considering the aforesaid facts and circumstances of the case, the respondents are directed to maintain the water body land as it is, without any interference.



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7. The prayer sought for in this Writ Petition cannot be granted.

Accordingly, the Writ Petition is dismissed, granting liberty to the individual members of the petitioner's association to make a fresh application, if the occupation is in respect of non-objectionable land and in such circumstances, the Revenue Authorities are directed to consider the same in accordance with law. No costs.

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Index : Yes / No

Speaking order: Yes / No

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To

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M.DHANDAPANI, J.
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