



W.P.(MD) No.28938 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.28938 of 2022
and W.M.P.(MD)No.22913 of 2022

M.Subburaj

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary,
Department of Revenue Administration
and Disaster Management,
Secretariate,
St. George Fort,
Chennai – 9.
- 2.The Commissioner of Land Administration,
O/o. Commissioner of Land Administration,
Land Administration Department,
Ezhilagam, Chepaukkam,
Chennai – 5.



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3.The District Collector,
Collectorate,
Theni District.

4.The District Revenue Officer,
O/o. the District Revenue Officer,
Theni District.

5.The Tahsildar,
Uthamapalayam Taluk Office,
Theni District.

6.The Executive Officer,
Komabi Selection Grade Town Panchayat,
Uthamapalayam Taluk,
Theni District.

7.Mr.R.Jeyin Ramesh

8.Mr.R.Suresh

9.Mrs.R.Shanthi Jeya

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring the patta granted in (Patta Nos. 2346 and 2689) in favour of the deceased parents of Respondent Nos.7 to 9 at Government Natham Promboke Land as illegal and direct the respondent Nos.1 to 6 to restore the possession of the land to the Government and Re-distribute to the deserving persons situated at S.No. 3693 /61 in an extent of 00525 sq.ft., and at S.No. 3693



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For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.V.Nirmal Kumar,
Government Advocate for R1 to R5

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Declaration, declaring the patta granted in (Patta Nos. 2346 and 2689) in favour of the deceased parents of respondent Nos.7 to 9 at Government Natham Promboke Land as illegal and direct the respondent Nos.1 to 6 to restore the possession of the land to the Government and re-distribute to the deserving persons situated at S.No.3693 /61 in an extent of 00525 sq.ft., and at S.No. 3693 /64 in an extent of 00015 sq.ft., Kombai West Village, Theni District, within a time frame.

2. Heard Mr.I.Pinaygash, learned counsel for the petitioner and Mr.V.Nirmal Kumar, learned Government Advocate, who takes notice for



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respondents 1 to 5. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the respondents 6 to 9 is dispensed with.

3. By consent of both parties, this Writ Petition is taken up for final disposal.

4. It is the case of the petitioner that the parents of respondents 7 to 9 had encroached the pathway and Natham vacant site in S.No.3693 /61 and they had obtained patta for a portion of the aforesaid land. After their demise, the respondents 7 to 9 are having illegal possession of the said land and constructed a compound wall by preventing the common pathway. In this regard, the petitioners have made several representations. However, till date, no action has been taken by the respondents to remove the aforesaid encroachment. Hence, the petitioner has approached this Court.

5. The learned Government Advocate appearing for the respondents 1 to 5 submitted that the petitioner has not filed any application before the revenue



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authorities for cancellation of patta granted to the respondents 7 to 9 and therefore, this Writ Petition is liable to be dismissed.

6. Considering the facts and circumstances and also considering the fact that without filing any application before the revenue authorities for cancellation of patta granted in favour of the respondents 7 to 9, the petitioner has approached this Court and therefore, this Writ Petition cannot be entertained and the same is liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed granting liberty to the petitioner to approach the revenue authorities for cancellation of patta granted in favour of the respondents 7 to 9. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]
22.12.2022

Index : Yes / No
Internet : Yes / No
vsm



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