



WEB COPY



W.P.No.21300 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.21300 of 2023
and
W.M.P.No.20702 of 2023

S.Murugan

Vs.

... Petitioner

1. The Tahsildar,
K.V.Kuppam Taluk,
K.V.Kuppam, Vellore District

2. The Revenue Divisional Officer,
Gudiyatham, Vellore District.

3. The District Collector,
Vellore District,
Sathuvachari, Vellore.

4. The Village Administrative Officer,
Alanganeri Village, K.V. Kuppam Taluk,
Vellore District

5. The President,
Alanganeri Village Panchayat,
Alanganeri, K.V. Kuppam Taluk,
Vellore District.

... Respondents



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Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents 1 to 3 to grant patta in favour of the petitioner in respect of the property bearing S.No. 185 to an extent of 4.40 Acres of land out of 4.80 Acres, situated at Alanganeri Village, K.V. Kuppam Taluk, Vellore District.

For Petitioner : Mr.N.Sampath

For Respondents :
(for R1 to R4) : Mr.D.Ravichander
Special Government Pleader
(for R5) : Mr.C.Jaya Prakash

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to grant patta in favour of the petitioner in respect of the property bearing S.No. 185 to an extent of 4.40 Acres of land out of 4.80 Acres, situated at Alanganeri Village, K.V. Kuppam Taluk, Vellore District.

2. The petitioner states that the subject property was classified as the "Government Poramboke" land. The father of the writ petitioner



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Mr.Sivalingam served in Indian Army and he was not in possession of any landed property or house sites. The father of the writ petitioner approached the District Collector, Vellore District and the then Collector directed the Village Administrative Officer of Alanganeri Village to allow the father of the petitioner to occupy the Government Poramboke land and construct a house for his own needs. Accordingly, the father of the petitioner was in occupation of the said property and subsequently, the petitioner is in possession of the same.

3. The petitioner states that they are cultivating the land for several years. The Tahsildar levied penalty and issued B- memo confirming the possession and enjoyment of the property by the father of the petitioner. Therefore, the actions initiated by the authorities to evict the petitioner from the subject land is based on certain incorrect facts.

4. The learned Special Government Pleader, appearing on behalf of the respondents, raised an objection by stating that admittedly the subject land has been classified as the "Government Poramboke", but the Government has not assigned the land in favour of the father of the petitioner. The father of the petitioner as well as the petitioner are the



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encroachers of the Government Poramboke land and thus, they are not entitled to get any relief from the hands of this Court.

5. The learned Special Government Pleader further states that the petitioner relied on the recommendation made by the Village Administrative Officer. Such oral recommendations granted by any official either a Village Administrative Officer or a Tahsildar cannot stand under the scrutiny of law.

6. The learned Special Government Pleader brought to the notice of this Court in respect of the Civil Court Decree passed in the year 2008. Perusal of the ex-parte decree dated 22.04.2008 reveals that OS.No.463 of 1982 was instituted against one Mr.V.Margabanthu and also against the Panchayat union and the Tahsildar. Pertinently, all the official respondents in the suit i.e., defendants 2, 4 and 5 remained ex-parte. Though the suit was instituted in the year 1982, it was an ex-parte decree in respect of the official respondents, and was passed by the District Munsif Court Gudiyatham after a lapse of about 26 years on 22.04.2008.

7. The averments of the plaint made by the petitioner herein reveals



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that the suit property is a Government land of a total extent of 4.80 Acres in which 40 cents of land is set out for a road. From March 1978, the plaintiff, who is an Army personnel, occupied the said extent of land and nobody raised any objection including the defendants who were in possession. Even when the petitioner himself has stated that it is a Government land in the suit, the Civil Court without hearing the Government authorities passed an ex-parte decree. Such decree cannot be construed as executable decree under the Code of Civil Procedure nor it can be utilised by the petitioner against the Government for the purpose of resuming the land.

8. The petitioner admittedly is in encroachment. The petitioner is in possession of the Government land when there is no valid assignment order in his favour. In the absence of any such valid assignment by the Government, the petitioner, based on just an oral permission granted by the Village Administrative Officer or Tahsildar, cannot retain the land.

9. The learned Government pleader appearing on behalf of the 5th respondent brought to the notice of this Court that the Government has already resumed the portion of the land and some portion of the land is



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being utilised as a burial ground for the benefit of the people of that locality. That apart, the remaining portion of the land is going to be utilised for the purpose of a park and actions are also initiated.

10. Thus, the respondents are directed to resume the entire property from the hands of the encroachers and illegal occupants and utilised the land for public purposes.

11. Accordingly, the writ petition stands **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

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