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W.P.No.33330 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.33330 of 2022
and
W.M.P.No.32772 of 2022

Rathika

... Petitioner

Vs.

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2. The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.

3. The Revenue Divisional Officer,
Tiruvannamalai District,
Tiruvannamalai.

4. The Tahsildar
Tiruvannamalai Taluk,
Tiruvannamalai District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 4th respondent to issue Patta in favour of the petitioner in respect of properties comprised in S.No. 132/5 to an extent of 0.98.5 hectares and S.No.132/5 to an extent of



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0.41.5 hectares situated at Kovur Village, Tiruvannamalai Taluk and District in the light of the communication of the 1st respondent dated 26.02.2020 in Oo. Mu. (AA2). 5359 / 2020 to the 4th respondent and based on petitioner representation dated 25.11.2022.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.E.Sundaram,
Government Advocate

ORDER

The relief sought for in the present writ petition is to direct the 4th respondent to issue patta in favour of the petitioner in respect of properties comprised in S.No. 132/5 to an extent of 0.98.5 hectares and S.No.132/5 to an extent of 0.41.5 hectares situated at Kovur Village, Tiruvannamalai Taluk and District in the light of the communication of the 1st respondent dated 26.02.2020 in Oo. Mu. (AA2). 5359 / 2020 to the 4th respondent and based on petitioner's representation dated 25.11.2022.

2. The petitioner states that the property comprised in Survey No.132/2 and 132/5, measuring an extent of 0.98.5 Hectares and 0.41.5 hectares situated at Kovur Village, Ladavaram Post, Tiruvannamalai Taluk and District is originally classified as Punjai Tharisu Government



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Pormaboke land. The said land was assigned in favour of one Parimala wife of Raji, and Manjula wife of Chinnathambi, in the year 1996. The assignees had not taken possession of the said property and the mother-in-law of the petitioner one Indirani, and their family members are in possession and enjoyment of the property for the past about 60 years. They are carrying out cultivation in the said lands.

3. The admitted fact by the petitioner would be sufficient to form an opinion that the competent authority under the Patta Passbook Act cannot grant Patta in view of Section 3 of the Act. Section 3 of the Patta Passbook Act stipulates that Tahsildar shall issue a Patta Passbook to every owner in respect of the land owned by him on an application made by him in this behalf. Therefore, the title holder alone is entitled to claim patta by submitting an appropriate application under the Patta Passbook Act and the patta is to be granted by conducting an inquiry.

4. When the subject lands are admittedly classified as Punjai Tharisu Government Pormaboke, the authorities competent cannot issue patta under the provisions of the Patta Passbook Act.



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5. That apart, the subject property, that is the Government Poramboke land was assigned in favour of one Parimala and Manjula, who in turn has not cultivated the land. When the original assignees had failed to cultivate the land, then the land is to be resumed by the Government. It is not as if any other non-assignee can enter into the subject land and cultivate the same without any assignment or proper order from the Government. The learned Government Advocate made a submission that the assignment, originally granted in favour of one Parimala and Manjula was also canceled by the competent authorities. Thus, the land vest with the Government and the petitioner is in illegal occupation of the Government Poramboke land.

6. In respect of such illegal occupation, patta cannot be granted by the Authorities. Thus, issuing a direction to consider the representation would do no service to the cause of justice and the litigant will be back again before this Court by filing another writ petition. Even for issuing a direction to consider the representation, the petitioner has to establish his right. In the absence of any right, no such direction is to be issued, and in the event of issuing any such direction, the same will infringe the rights of others or may pave way for corrupt activities in Government Departments.



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By virtue of such directions, certain greedy men may take an attempt to grab the Government properties and thus, it is a pre-condition for entertaining a writ petition to establish a right.

7. If at all, the petitioner is a poor landless person, he has to submit an application for the purpose of availing a Government welfare scheme. Contrarily the petitioner cannot encroach upon the government land and claim patta in respect of the said encroachment of the Government Poramboke land. Vast extent of land cannot be assigned in favour of a single person depriving the rights of all other landless poor people who all are waiting and longing to secure and avail the government welfare schemes. Equal distribution of benefit of the welfare schemes is a constitutional mandate and discrimination in any form in the matter of grant of free house site or land is impermissible.

8. Thus, the authorities competent have to take note of all these aspects and initiate appropriate actions to resume the lands which all are under encroachment and utilise the land for public purposes or assign the land for cultivation as the case may be, by scrupulously following the schemes in force or otherwise.



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WEB COPY 9. With these observations, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

(sha)

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Index : Yes

Speaking Order

Neutral Citation : Yes

To

1. The District Collector,
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S.M.SUBRAMANIAM. J.,

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