



W.P.(MD) No.4450 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD) No.4450 of 2023

K.Sathivel

... Petitioner

VS.

1.The District Collector,
District Collectorate,
Virudhunagar District,
Virudhunagar-626 002.

2.The Tahsildar,
Taluk Office,
Rajapalayam,
Virudhunagar District.

3.The Village Administrative Officer,
Sholapuram Village,
Rajapalayam Taluk,
Virudhunagar District.

4.The Commissioner,
Union Office,
Rajapalayam,
Virudhunagar District.

5.The Panchayat President,
Sholapuram Village Panchayat,
Rajapalayam Taluk,
Virudhunagar District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein not to interrupt the petitioner's peaceful possession and enjoyment in S.Nos.1261/1A about 1 acre situated in Sholapuram Village, Rajapalayam Taluk, Virudhunagar District, Virudhunagar and direct the third respondent to issue patta to the petitioner's land as per petitioner's petition, dated 22.12.2022.

For Petitioner : Mr.S.Radhakrishnan

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The writ petition has been filed in the nature of Writ of Mandamus, seeking a direction to the respondents not to interfere with the possession of the petitioner's lands in S.Nos.1261/1A measuring 1 acre at Sholapuram Village, Rajapalayam Taluk, Virudhunagar District, Virudhunagar and also to direct the third respondent to issue patta to the petitioner. The petitioner had given a representation on 22.12.2022.

2.The learned counsel for the petitioner stated that the petitioner had been in possession of the aforementioned lands after the demise of his grandmother.



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The taxes had been paid. However, the respondents did not come forward to issue patta. The ancestors of the petitioner were cultivating the lands from 1947 for more than 75 years. The petitioner had also given a representation to the first respondent/District Collector, who had directed the second respondent/Tahsildar to consider the request of the petitioner. However, the petitioner has also made a further representation to the second respondent enclosing necessary documents. But the second respondent had not passed any orders. Hence, the petitioner has filed this writ petition.

3.The learned Special Government Pleader had forwarded written instructions, wherein, it had been stated that the said lands had been classified as “சதுரகிணறு மற்றும் பாதை”. It had been stated that therefore, the land would be used for by the Government for welfare purposes.

4.The learned counsel for the petitioner placed reliance on the order passed by this Court ***in W.P.(MD)No.18754 of 2005 dated 04.11.2013 in K.Ilangovan Vs. The District Collector and others***, wherein, a learned Single Judge of this Court after relying on a catena of judgments, held as under:



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“....10.Considering all these decisions of this Court and by considering the admitted factual position with regard to the classification of the land as grama natham, I am of the view that the respondents have got no right to interfere with the peaceful possession and enjoyment of the land which is in occupation of the petitioner at S.No.1007/1, 1007/2, 1007/3 and 1008/1 in Kannamanaickanur village, Marulpatty, Udumalpet Taluk, Coimbatore District. The respondents have not stated in their counter that they are not trying to interfere with the possession of the petitioner's enjoyment and on the other hand, it is their case that the petitioner has encroached upon the lands, which is meant for granting patta to houseless poor and agricultural labourer. Only when the respondents are having any right over the land, they can take action against the petitioner to evict and to grant patta in respect of the said land to the houseless poor or agricultural labourer. When they do not have any right over the land as held by this court in the decisions as referred to supra, in my considered view, the respondents cannot interfere with the petitioner's peaceful possession and enjoyment of the land. Accordingly, I find the petitioner is entitled to succeed in this writ petition. Consequently, the writ petition is allowed. No costs. The connected miscellaneous petitions are closed.”



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5.The said direction would also apply to this case. It is the case of the respondents that the petitioner had encroached upon the land, which is meant for granting patta to houseless poor or agricultural labourer. When the respondents are having right over the land, they can take action against the petitioner. Let the respondents issue notice to the petitioner and if they issue notice, they may complete the process within a period of 12 weeks from the date, on which, they can take a decision to issue notice to the petitioner. If the petitioner is however, entitled for patta on the basis of the documents, the respondents may pass necessary orders as stated above. It is for the respondents to take an appropriate decision.

6.The Writ Petition stands disposed of. No costs.

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Index : Yes / No

Internet : Yes / No

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C.V.KARTHIKEYAN,J.

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