



W.P.(MD).No.5361 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 20.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

W.P.(MD).No.5361 of 2023
and
W.M.P(MD).No.5028 of 2023

M.Balusamy

... Petitioner

Vs.

- 1.The Tahsildar,
Ottanchathiram Taluk Office,
Ottanchathiram,
Dindigul District.
- 2.The Block Development Officer,
Ottanchathiram Union Office,
Dindigul District.
- 3.The Panchayath President,
Kappiliyapatti Panchayat Office,
Ottanchathiram Taluk,
Dindigul District.
- 4.The Inspector of Police,
Ambilikkai Police Station,
Othakadai Taluk,
Dindigul District.

...Respondents

(R4 is suo motu impleaded vide order dated 13.03.2023 in W.P(MD).No.5361 of 2023)



W.P.(MD).No.5361 of 2023

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to issue Patta in his name with regard to Grama Natham House site in Old Survey No.270 A/1A, New Survey No.844/34 and total extent as 1136 Sq.Feet which is situated at Kappiliyapatti Village, Arasamara Street, Kosavapatti, Ottenchatthiram Taluk, Dindigul District, based on his representation dated 24.02.2023 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.A.D.Ganeshamoorthi

For Respondents : Mr.J.Ashok
Additional Government Pleader
for R1
Mr.D.Sadiq Raja
Additional Government Pleader
for R2 and R3
Mr.R.M.S.Sethuraman
Additional Public Prosecutor for R4

ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction to the first respondent to issue Patta in the name of the petitioner relating to Grama Natham House Site in old Survey No.270 A/1A, New Survey No.844/34, total measuring 1136 Sq.feet situated at Kappiliyapatti Village, Arasamara Street, Kosavapatti, Ottenchatthiram Taluk, Dindigul District.



W.P.(MD).No.5361 of 2023

WEB COPY

2. The petitioner had given a representation on 24.02.2023. The petitioner has a house at Survey No.844/32. It is claimed by the learned counsel appearing for the petitioner that the particular land had been allotted to the father of the petitioner herein. However, he has put up a house and is residing. There is an adjacent land in Survey No.844/34. The petitioner now claims that since it is a Grama Natham land, he should be provided with patta for that particular land. Hence, he had given a representation on 24.02.2023 and seeks a Mandamus in that regard. This Writ Petition has been presented before this Court on 09.03.2023. In the writ petition, the petitioner had filed as a document the letter addressed by him to the Hon'ble Chief Minister, dated 24.02.2023, wherein, he had stated that in Survey No.844/34, there are attempts being made to put up a road. The revenue records show that Survey No.844/34 is classified as street/Theru. It is claimed by the respondents that it is not a Grama Natham land, but it is a street. It is common knowledge that a street has to be used by the general public for moving up and down.



W.P.(MD).No.5361 of 2023

WEB COPY

3. The learned counsel appearing for the petitioner states that there are revenue records in which the said land is classified as Grama Natham.

4. There are two versions provided that before filing of the present writ petition, the land was vacant and thereafter, the petitioner has put up a small thatched shed. The contention of the respondents is that just before filing the writ petition, the petitioner had put up the shed and obstructed the free passage in the road. Therefore, a complaint was given and the general public demolished the shed.

5. It is the contention of the learned counsel appearing for the petitioner that the shed has been in existence for 24 years and that the petitioner is residing in that particular shed. Therefore, since it is only Grama Natham land, the petitioner is entitled for grant of patta in that particular land.

6. When the petitioner has been residing in that land, I wonder at the necessity for filing the present writ petition after 24 years for regularizing possession. When there are divergent facts as to whether the



W.P.(MD).No.5361 of 2023

shed had been put up just before the filing of the writ petition or whether the shed had been put up 24 years prior to the writ petition was filed, are facts on which this Court cannot come to any conclusion. The revenue records show that it is a street. It is claimed to be a Grama Natham.

7. Insofar as the petitioner is concerned, he had filed the present writ petition in the nature of Mandamus seeking patta. That request has been rejected by the Tahsildar, who had passed an order dated 10.03.2023 stating that Survey No.844-34 is actually classified as street/Theru and therefore, patta cannot be granted. This order has to be appealed by the petitioner in manner known to law, before the Revenue Divisional Officer. This Court cannot adjudicate facts in writ jurisdiction. It is also complained by the learned Additional Public Prosecutor that complaints had been received from the general public and in the counter affidavit filed by the Inspector of Police, who has been impleaded as the fourth respondent, it has been stated that two C.S.Rs have been registered and that a peace committee meeting was convened by the Officials to ensure that the entire issues are kept under the control.



W.P.(MD).No.5361 of 2023

WEB COPY

9. The Tahsildar has passed an order that the relief seeking patta which is the only issue involved in the present writ petition had been rejected and that the patta claimed by the petitioner cannot be granted since the land in Survey No.844/34 is a street/Theru. Option is available to the petitioner, if he so interested, to file an appeal against the order passed by the Tahsildar. With regard to the putting up of the shed, demolition of shed and other facts, he has to necessarily file a civil suit. If he is able to prove that he had put up the shed 20 years prior to the filing of the writ petition and that it had been demolished without any authority by the respondents, he can file an appropriate suit. At the same time, if the respondents are able to establish that the shed was put up just before filing the writ petition and was demolished, then only a civil Court can examine all these aspects.

10. Insofar as the nature of the relief seeking patta in the writ petition, the Tahsildar has refused to grant the same vide proceedings dated 10.03.2023. However, the petitioner can always file an appeal under the Patta Passbook Act and it has to be filed only before the Revenue Divisional Officer, who can examine all aspects.



W.P.(MD).No.5361 of 2023

WEB COPY

10. This Writ Petition is disposed of by giving liberty to the petitioner to approach any forum which could grant appropriate relief. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2023

Index: Yes/No
Internet: Yes/No
ssb



W.P.(MD).No.5361 of 2023

To

1. The Tahsildar,
Ottanchathiram Taluk Office,
Ottanchathiram,
Dindigul District.
2. The Block Development Officer,
Ottanchathiram Union Office,
Dindigul District.
3. The Panchayat President,
Kappiliyapatti Panchayat Office,
Ottanchathiram Taluk,
Dindigul District.
4. The Inspector of Police,
Ambilikkai Police Station,
Dindigul District.



WEB COPY



W.P.(MD).No.5361 of 2023

C.V. KARTHIKEYAN, J.

ssb

W.P.(MD).No.5361 of 2023

20.03.2023