



WP(MD)No.15633 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.15633 of 2017
and W.M.P(MD).No.12357 of 2017

N.Shanmugam

.. Petitioner

vs.

1.The Commissioner of Land Administration/
Additional Chief Secretary,
Department of Land Administration,
Ezhilagam,
Chepauk,
Chennai.

2.The District Revenue Officer,
Collectorate,
Sivagangai District.

3.The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Ceritorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent herein in his proceedings in Pa.Mu.Si/219825/2016 dated 28.07.2017, signed on 10.08.2017 and further direct the second respondent herein to issue patta in favour of the writ petitioner for the land in Survey No.691/7, New Survey No.844/33 to an extent of 102 square meters, Salaigramam Village, Ilayankudi Taluk, Sivagangai District, following the



WP(MD)No.15633 of 2017

civil Court decree in O.S.No.54 of 2010 on the file of the District Munsif cum Judicial Magistrate Court, Ilayankudi, within the time stipulated by this Court.

For Petitioner : Mr.D.Nallathambi

For Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.M.Sarangan
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order passed by the second respondent dated 28.07.2017, rejecting the request of the petitioner for grant of patta in respect of old Survey No.691/7, New Survey No.844/33 situated at Salaigramam Village, Ilayankudi Taluk, Sivagangai District.

2. The petitioner claims that he is the owner of the land in old Survey No.691/7, New Survey No.844/33 measuring to an extent of 102 square metres at Salaigramam Village, Ilayankudi Taluk, Sivagangai District and purchased the subject land by way of a registered document in Document No.301 of 2007 dated 25.04.2007 from the legal heirs of one Balakonar and the said Balakonar has purchased this land by way of a registered document in Document No.787/1940 dated 15.06.1940. While so, it has been wrongly classified as Sarkar Kalimanai



WP(MD)No.15633 of 2017

during Natham settlement, based on which, the subject land was assigned to one Narayanan on 29.10.2004. Knowing that the petitioner has raised objections before the Revenue Divisional Officer, Sivagangai, to cancel the assignment and to grant patta in his favour, the third respondent, who conducted a detailed enquiry, vide proceedings dated 20.02.2009, cancelled the assignment issued in favour of the said Narayanan, however, did not issue any patta in favour of the petitioner. Therefore, the petitioner has filed a civil suit before the District Munsif cum Judicial Magistrate, Ilayankudi in O.S.No.54 of 2010 for the relief of declaration of title and permanent injunction on the subject property as against the District Collector, Sivagangai District and the Tahsildar, Ilayangudi Taluk and the suit was decreed in favour of the petitioner on 10.03.2011. In the meantime, the assignee, viz., Narayanan, has preferred an appeal before the second respondent as against the order of the third respondent dated 20.02.2009 cancelling the order of assignment and the second respondent dismissed the appeal vide order dated 20.06.2015 confirming the order passed by the third respondent. Thereafter, the petitioner has filed a petition before the second respondent for grant of patta in respect of the subject property and the same was pending without any progress. Therefore, the petitioner has filed a writ petition before this Court in W.P(MD).No.21237 of 2015 for a Mandamus directing the District Revenue



WP(MD)No.15633 of 2017

Officer, Sivagangai, to dispose of his petition dated 31.07.2015 preferred by him for grant of patta and this Court, vide order, dated 30.11.2015, has disposed of the said writ petition directing the respondent to consider the petition of this petitioner by taking into account the judgment and decree granted in favour of the petitioner in O.S.No.54 of 2010 on 10.03.2011 by the District Munsif cum Judicial Magistrate Court, Ilayankudi. However, the District Revenue Officer has rejected the request of the petitioner for grant of patta vide order dated 24.02.2016, which was challenged before the first respondent by way of an appeal and the first respondent, vide order dated 16.08.2016, has remitted the matter back to the second respondent to decide the matter afresh taking into account the judgment and decree passed in O.S.No.54 of 2010 dated 10.03.2011 and thereafter, the impugned order has been passed by the second respondent on 28.07.2017 rejecting the request of the petitioner for grant of patta and the same is under challenge in this Writ Petition.

3. The learned counsel appearing for the petitioner submits that the petitioner has purchased this land by way of a registered sale deed dated 25.04.2007 in Document No.301/2007 and his vendor has purchased the land by way of a registered document in Document No.787/1940 dated 15.06.1940. The



WP(MD)No.15633 of 2017

land was originally classified as Natham land and during Natham settlement, by oversight, it was classified as Sarkar Kalimanai and was wrongly assigned in favour of one Narayanan, against which, the petitioner has preferred an appeal and the order of assignment was cancelled. Therefore, the petitioner has filed a petition before the second respondent for grant of patta in his favour in respect of the subject land and since the same was not considered, he has filed a Writ Petition in W.P(MD).No.21237 of 2015 and this Court has also issued a specific direction to the second respondent to take a decision on the petition made by the petitioner on 31.07.2015, in accordance with the judgment and decree passed in O.S.No.54 of 2010 dated 10.03.2011. However, without considering the same, the second respondent has passed an order rejecting the request of the petitioner for grant of patta, which was challenged before the first respondent and the first respondent has set aside the order passed by the second respondent on the ground that the decree passed by the civil Court was not considered, and remanded the matter once again for fresh consideration. Thereafter, the second respondent has passed the impugned order rejecting the request of the petitioner in a mechanical manner, without considering the decree granted by the competent civil Court in favour of the petitioner and therefore, it is liable to be set aside.



WP(MD)No.15633 of 2017

4. The learned Additional Advocate General submits that as per the revenue records, the subject property is classified as Sarkar Manai. The petitioner has purchased the property without verifying the fact that it is a Government land and put up shed. Although the petitioner claimed to have obtained a decree on 10.03.2011 in his favour by filing a suit in O.S.No.54 of 2010 before the Hon'ble District Munsif Court, Ilayangudi, he had submitted an application to the second respondent after a delay of four years. Hence, the petitioner's claim itself is considered to be a belated one and it has been affected by the delay and laches. As per the order of the second respondent in Na.Ka.No.C2/14209/2009 dated 20.06.2015, the land in Old Survey No.691/7, New Survey No.844/33 at Salaigramam village, Ilayangudi Taluk, Sivagangai District is classified as "Sarkar Manai" in the Revenue Records and the same was granted as free house site in favour of one Narayanan and subsequently, it was cancelled. Thereafter, inspection was conducted in the said land and it was found that the entire extent of land remained vacant and the land was ordered to be resumed as Government land, since it is required for public development purpose. With regard to the decree granted in favour of the petitioner, the learned Additional Advocate General submits that on the mistake committed by some Officials in not preferring the appeal, the valuable properties of the Government cannot be granted in favour of



WP(MD)No.15633 of 2017

the petitioner who is not the owner of the property.

WEB COPY

5. This Court considered the rival submissions made and perused the materials placed on record.

6. The petitioner claims title over the property based on the sale deed dated 25.04.2007 in Document No.301/2007 and the Document No.787/1940 dated 15.06.1940 which is in favour of his vendor. The petitioner has also filed a civil suit in O.S.No.54 of 2010 before the District Munsif cum Judicial Magistrate, Ilayankudi, for the relief of declaration and permanent injunction in respect of the subject property, against the District Collector, Sivagangai District and the Tahsildar, Illayangudi Taluk and the suit was contested by the respondents through the learned Government Pleader. The suit was finally decreed granting the relief of declaration that the suit property belongs to the plaintiff. Permanent injunction was also granted in favour of the plaintiff restraining the defendants from interfering with his possession of the plaint schedule property. The said judgment and decree passed by the learned District Munsif cum Judicial Magistrate, Ilayankudi has become final. The District Collector, Sivagangai District and the Tahsildar, Illayangudi Taluk, who contested the suit, had not preferred any appeal as against



WP(MD)No.15633 of 2017

the judgment and decree dated 10.03.2011. The same was considered by this Court in W.P(MD).No.21237 of 2015 and a direction was issued to the second respondent to consider the petition made by the petitioner on 31.07.2015. Even thereafter, the second respondent has passed a similar order not considering the request of the petitioner and it was challenged before the first respondent by way of appeal. The first respondent, vide proceedings, dated 16.08.2016, suggested the second respondent to verify with the decree passed in the above mentioned suit and take necessary steps to file an appeal against the said decree. Though this was observed by the first respondent in his order, dated 16.08.2016, the second respondent has not taken any steps to file appeal and instead, simply rejected the request of this petitioner for grant of patta vide the impugned order, without application of mind.

7. The District Administration claims that the subject land is a Sarkar Kalimanai. However, the petitioner claims that he is having the documents to prove that it is a Natham land which was purchased by way of a registered document in the year 1940. When the petitioner has obtained a decree, the second respondent is bound to comply with the decree. Instead, the second respondent is again and again repeatedly taking a decision that the subject land is a Sarkar



WP(MD)No.15633 of 2017

Kalimanai. The first respondent, while remanding the matter back, has also suggested the second respondent to file appeal, if it has not been preferred. However, the second respondent by the impugned order has acted in a highhanded manner as if he is above the law. This attitude of the second respondent is condemnable and the impugned order is liable to be set aside.

8. In this case, the petitioner is having some registered documents in his favour. Even in case where the lands belong to the Government, the Officials are not contesting the case effectively by defending the suit and not preferring any appeal in time. Most of the properties of the Government are lost in view of this lethargic attitude of some Officials who are supposed to take a decision immediately. The Department has not prescribed the responsibility and accountability on these Officials and therefore, there is a lethargic attitude and also connivance of some officials in not defending the case and prosecuting the case properly. Unless and otherwise the Government frames a guideline fixing the responsibility and accountability on the Officials who are conducting the cases, the valuable properties of the Government cannot be protected. Hope, the Commissioner of the Land Administration will pass necessary orders directing the District Administration and the Revenue Officials by framing a guideline in



WP(MD)No.15633 of 2017

dealing with the Government cases. Even if there is any delay, action can be taken as against the concerned Officials who are responsible for the delay in not filing the appeals and if the appeals have been filed with genuine reasons of delay, the Court would condone the delay, provided if sufficient reasons are adduced. What is required is courage to take action as against the erring officials who have not taken steps in protecting the Government lands.

9. This Court in a similar case where actions have not been taken by the Educational Department, vide order dated 08.01.2018 in W.P.No.5 of 2019 has issued certain directions. Following the same, a Circular was issued in No.5196/CCMS/2019-1, Public (CCMS) Department, dated 12.02.2019 by the Chief Secretary to Government directing all the Heads of the Department to scrupulously follow the directions of this Court in its letter and spirit. Even then, the system has not been changed and it needs a reback issuing a circular by fixing the responsibility and accountability on the Officials. Otherwise, it is very difficult to protect the Government lands.

10. Considering the volume of the cases and the value of the properties involved, the Government may also think of prescribing certain responsibility and



WP(MD)No.15633 of 2017

accountability on the Officials to deal with these cases. It is upto the Government to take a call on this issue.

11. In fine, this Writ Petition is allowed and the impugned order dated 28.07.2017 passed by the second respondent is set aside. The second respondent, namely, the District Revenue Officer, Sivagangai District, shall issue necessary orders directing the concerned Tahsildar to grant patta in favour of the petitioner on the subject land as per the judgment and decree passed in O.S.No.54 of 2010 dated 10.03.2011 by the District Munsif cum Judicial Magistrate, Ilayankudi, within a period of 12 weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
ssb

18.12.2023



WP(MD)No.15633 of 2017

To

- 1.The Commissioner of Land Administration/
Additional Chief Secretary,
Department of Land Administration,
Ezhilagam,
Chepauk,
Chennai.
- 2.The District Revenue Officer,
Collectorate,
Sivagangai District.
- 3.The Revenue Divisional Officer,
Sivagangai Revenue Division,
Sivagangai.



WEB COPY



WP(MD)No.15633 of 2017

B.PUGALENDHI, J.

ssb

WP(MD)No.15633 of 2017

18.12.2023