



WP(MD). No.25368 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 13/02/2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.(MD). No.25368 of 2019

1 Karuppasamy

2 Prakalathan

...

Petitioners

-VS-

1 The District Collector,
Thoothukudi District.

2 The District Revenue Officer/
Additional Collector,
Thoothukudi District.

3 The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

4 The Tahsildar,
Vilathikulam Taluk,
Thoothukudi District.

5 Mariappan

...

Respondents



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PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records relating to the proceedings of the impugned order in Na.Ka.D1/9838/2019, dated 06.11.2019, on the file of the 2nd respondent and quash the same.

For Petitioners : Mr.R.Maheswaran

For Respondents 1 to 4 : Mr.M.Sarangan,
Addl. Govt. Pleader.

ORDER

**(Order of the Court was made by
the Hon'ble The Chief Justice)**

By this petition, an order, dated 06th November, 2019, on the file of second respondent, has been impugned and petitioners are seeking a writ of certiorari.

2. According to petitioners, who are brothers, they were issued with free pattas, which have been cancelled by the impugned order. Petitioners also state their family helped for formation of road in the year 1980, adjacent to which, there was a land that petitioners' family owned. On an application by petitioners, fourth respondent granted free pattas in respect of 500 sq.ft. of land. Free pattas were granted to each petitioner, admeasuring 25 sq.mts. each. While



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granting free pattas, fourth respondent i.e., the Tahsildar also sub-divided the land. On receipt of free pattas, petitioners decided to construct a house with tin sheet. After obtaining building plan and approval, petitioners claim to have constructed a house in 329 sq.ft. area and claim to be residing in the said house.

3. On a complaint lodged by fifth respondent to third respondent, namely, Revenue Divisional Officer, alleging that pattas have been granted to petitioners, which could not have been given, because the land was classified "street/vacant land". After considering the request/complaint of fifth respondent, third respondent, by an order, dated 05.03.2019, cancelled pattas, on the basis of the report issued by the Tahsildar. Before passing the order, a hearing has been given to petitioners as well as fifth respondent. This was followed by an order, dated 28.05.2019, informing petitioners, that tin sheet house will be demolished, as encroachment.

4. Petitioners preferred an appeal before second respondent, namely, District Revenue Officer/Additional Collector, which appeal came to be dismissed by the order, dated 06.11.2019. It is that order, that has been impugned in the petition.



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5. Petitioners are unhappy with the said order and one of the grounds raised was that petitioners, having constructed tin sheet house after obtaining proper building plan, permission and paying property tax, respondents are estopped from now demolishing the house, after legally letting petitioners to construct the same.

6. Copies of free pattas, dated 31st July, 2017, have been annexed to the petition. The said grant itself indicates that petitioners shall not encroach upon road, or pathway, used by public, or river, or any water body.

7. Admittedly, patta land is shown in the records as "pathway".

8. A counter affidavit is filed by second respondent through one B.Vishnu Chandran, affirmed on 28.02.2020. Serious allegations have been made and, despite receiving a copy, no rejoinder has been filed.

9. It is stated that pattas have been granted in Sarkar Poramboke Theru land without any classification of change and without any approval of sub-divisions and without following due procedure. Hence, Revenue Divisional Officer, Kovilpatti, cancelled the free house



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site pattas, issued to petitioners, due to irregularities, and disciplinary action has been initiated under Rule 17 (a) of Tamil Nadu Civil Services (Discipline & Appeal) Rules against the defaulting Tahsildar, Vilathikulam, by the Revenue Divisional Officer, Kovilpatti.

10. It is also stated, free house site pattas, that were issued to petitioners, have been issued for a land, that was classified as “Sarkar Poramboke Theru Vacant Land” in Survey No.197/20 to an extent of 25 sq.mts. in the name of Karuppasamy, S/o. Gurusamy, and Survey No. 197/21 to an extent of 25 sq.mts. in the name of Prakalathan, S/o.Gurusamy, vide Vilathikulam Tahsildar's proceeding, dated 31.07.2027. Fifth respondent had preferred a petition, dated 06.06.2018, before Tahsildar, Vilathikulam, and stated that Survey No. 95/7, Kamalapuram village, Vilathikulam Taluk, belonged to him, where he had constructed a house. It is stated that on the western side of the house of fifth respondent, there is a Government Poramboke Road in Survey No.197/1 and that was used as public pathway. It is alleged that petitioners encroached the pathway, by putting stone pillars, and, despite fifth respondent's request, they have not been removed. On the complaint made by fifth respondent, the Tahsildar, who was then on job, conducted an enquiry and it was found that free house site pattas to



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petitioners in Natham Survey No.197/1, which is classified as "Theru" without any sub-division and approval, were issued in the field, where "Tar Road" existed. It was for this reason, the Revenue Divisional Officer cancelled free house pattas, on the recommendation made by the Tahsildar.

11. It is further stated in the affidavit of second respondent that petitioners had owned land near the same survey number, where free pattas were given, and, as such, petitioners were legally not entitled to grant of free pattas.

12. Sri M.Sarangan, Additional Government Pleader, submitted that petitioners have fraudulently obtained pattas and when it came out that they were not entitled to free pattas as they already owned land and free pattas were given only to landless poor, it was decided to cancel the pattas granted.

13. These allegations have been made in the affidavit, copy whereof was served on 02nd March,2020. There is no rejoinder, even denying these allegations. Therefore, we have no option but to accept that the allegations made are correct.

14. Counsel for petitioners even stated that the land is classified as "Sarkar Theru Vacant land" and it was a vacant land.



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15. Naturally, Theru, which is the road, has to be vacant and that will not give a licence to petitioners to build a house on the said land.

16. Counsel for petitioners states, petitioners shall dismantle/demolish the house and take away the tin sheets/debris and their personal belongings within thirty days.

17. Statement is accepted as an undertaking given to this Court. Thirty days' period will begin today.

18. If petitioners do not vacate, fourth respondent shall, on the 31st day from today, take steps to evict petitioners and demolish the structures. Equally, Senior Inspector of the local Police Station shall render all assistance and deploy such number of police personnel as required to ensure there is no breach of law and order or peace.

19. Writ Petition stands dismissed accordingly. No costs. Consequently, the connected W.M.P.(MD) Nos.21929 and 21931 of 2019 are closed.

(K.R.SHRIRAM, C.J.) (V.LAKSHMINARAYANAN, J.)

13.02.2025

NCC : Yes/No
Index : Yes/No
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