



W.P.No.25194 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.25194 of 2019

and

W.M.P.No.24766 of 2019 and 3550 of 2023

S.Muralidharan

... Petitioner

Vs.

- 1.The District Collector,
Salem District.
- 2.The Revenue Divisional Officer,
Sankari Taluk, Salem District.
- 3.The Tahsildhar,
Sankari Taluk, Salem District.
- 4.Ex-Servicemen Welfare Board,
Collector Office Campus,
Salem – 636 001.
- 5.The Commissioner,
Devannagoundanur Panchayat,
Sankari Taluk, Salem District.
- 6.The President,
Devennagoundanur Panchayat,
Sankari Taluk, Salem District.



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7. The Special Officer,
Devannangoundanur Panchayat,
Sankari Taluk, Salem District.

8. The Village Administrative Officer,
Devannangoundanur Village Panchayat,
Kuppanur Post,
Sankari Taluk, Salem District.

9. The Surveyor,
Devannangoundanur Village Panchayat,
Kuppanur Post,
Sankari Taluk, Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the third respondent to issue Patta in favour of the petitioner's mother Lalitha with respect to the lands measuring an extent of 0.30.0 or 0.86 cents situated in Survey No.709/4 in Devannagoundanur Village, Sankari Taluk, Salem District.

(Prayer amended as per order of this Court dated 23.07.2024 in W.P.No.25194 of 2019)

For Petitioner : Mr.I.Abrar Mohamed Abdullah

For Respondents :

For R1 to R3,

R8 and R9

: M/s.R.L.Karthika

Government Advocate

For R4

: No appearance



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For R5 to R7 : Mr.R.Venkatesh

ORDER

This Writ Petition has been filed seeking for issuance of a mandamus, to direct the third respondent to issue Patta in favour of the petitioner's mother Lalitha with respect to the lands measuring an extent of 0.30.0 or 0.86 cents situated in Survey No.709/4 in Devannagoundanur Village, Sankari Taluk, Salem District.

2. The case of the petitioner is that based on the allocation of 86 cents of land by the then Chief Minister of Tamil Nadu to the petitioner's father, he cultivated and enjoyed the subject matter land more than 3 decades. The petitioner's father made several representations for issuance of Patta for the subject matter land on various dates viz., 29.11.2004, 27.03.2007, 29.11.2007 and 21.07.2008, 25.02.2010, 15.03.2010 and 21.07.2011, however, no action was taken by the Government Officials. After the death of the petitioner's father on 13.02.2018, the petitioner's mother also sent representations to get Patta for the subject matter land. On 25.07.2019, the eighth and ninth respondents along with some Government Officials illegally measured the subject matter land stating that the first respondent had taken emergent steps to dispossess the



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petitioner and take the subject matter land for construction of building for Agricultural Research Institute.

3. Learned counsel appearing for the petitioner submitted that the petitioner's father Late M.Srinivasan was an Ex-Servicemen (MEG) and handicapped, who served in Indian Army from the year 1965-1981. Based on the appreciation and for rehabilitation purpose, the then Chief Minister of Tamil Nadu in the year 1979, allotted an extent of 86 cents of lands classified as “Thoppu Poramboke” in Survey No.709/4 situated at Devannagoundanur Village, Kuppanur Post, Sangagiri Taluk, Salem District in favour of his father and his father was in regulated possession of the said lands. He further submitted that based on the said allocation, the said lands were in possession and enjoyment of the the petitioner's father and he cultivated and enjoyed the property for more than 35 years and has also constructed a small house in the said lands and residing there for more than 3 decades and paying the electricity bills, taxes, kists and fees to the Government until 2007.

4. Learned counsel appearing for the petitioner further submitted that the petitioner's father made a representation for issuance of Patta in respect of the



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said lands on 30.10.1987 and another representation on 15.06.1992 to the Tahsildhar the third respondent herein. The third respondent by his proceedings dated 24.09.1992 in O.Mu.No.7142/1992 has stated that the lands have been classified as “Thoppu Poramboke” and steps have been taken to reclassify the land as “Assessed lands” and informed that after such reclassification of lands, representation will be taken into consideration. Out of entire extent of 0.47.0 hectares in Survey No.709/4 in Devannagoundanur Village, Kuppanur Post, Sangagiri Taluk, Salem District, 0.31.0 hectares were classified as “assessed lands” and the third respondent by his proceedings dated 18.11.1994 in Na.Ka.No.6793/1994(P3) had forwarded information to the seventh respondent, Devannagoundanur Panchayat for receiving objections for allotment of lands to the father of the petitioner. The seventh respondent by resolution dated 05.12.1994, had given no objection and gave approval for the allotment of lands to the father of the petitioner in respect of 0.31.10 hectares in Survey No.709/4 in Devannagoundanur Village and sent communication dated 09.12.1994 in Na.Ka.No.5483/94/A3 to the third respondent.

5. Learned counsel appearing for the petitioner would further submit that the first respondent District Collector had made entries of the said reclassification of lands in the Government Official Gazette and published the



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same by Circular dated 21.08.1999 and thereafter, the father of the petitioner made representation before the first respondent for issuance of Patta on 31.03.2003 and the first respondent by his proceedings dated 24.04.2003 in Na.Ka.No.20636/2003/K3, had forwarded it to the third respondent and communicated the petitioner that the same will be considered after getting recommendations from the Tahsildhar the third respondent herein. There was no response from the third respondent and thereafter the father of the petitioner made several representations for issuance of Patta in respect of his land on various dated viz., 29.11.2004, 27.03.2007, 29.11.2007 and 21.07.2008. However, no action was taken by the Government Officials for issuance of Patta.

6. Learned counsel appearing for the petitioner submitted that the father of the petitioner filed an application dated 27.07.2009 under the Right to Information (RTI) Act, 2005, to know the status of his representations made before the respondents and the Public Information Officer by his communication dated 17.08.2009, had forwarded it to the first respondent. The first respondent by his proceedings dated 20.08.2009 in Na.Ka.No.6638/2004/K3, had directed the third respondent to conduct inquiry whether the father of the petitioner has any other Patta lands under Ex-



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Servicemen Welfare Scheme and also to conduct a detail inquiry based on the representations and to issue Patta in favour of the father of the petitioner. Even after that, the respondents took no action and the father of the petitioner made representation before the Commissioner of Land Administration, Chennai on 25.02.2010 and the Commissioner of Land Administration, Chennai by his Letter dated 02.03.2010, had directed the first respondent to take immediate action on the petitioner's father representation and to submit a report. The father of the petitioner on Ex-Servicemen Grievance Day, made representation on 15.03.2010 to the first respondent namely the District Collector, Salem District vide Petition No.12015 and thereafter the second respondent namely the Revenue Divisional Officer by his emergent Circular dated 23.03.2010 in Na.Ka.No.648/2010(D), had directed the third respondent to make immediate inquiry based on the representation dated 15.03.2010 and to pass appropriate orders. It is further submitted that even then no action was taken by the respondents and the Assistant Director of Ex-Servicemen Welfare Board, Salem by communication dated 09.11.2010, had recommended the third respondent to consider the representation of the petitioner's father to issue Patta in respect of the lands belonging to him. It is further submitted that the petitioner's father died due to heart attack on 13.02.2018 and after his death, the petitioner's mother Lalitha made representation before the first respondent and the first



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respondent by his proceedings dated 22.11.2018, had directed the second respondent to conduct inquiry and to reply to the representation and to furnish a report and thereafter, again on 22.07.2019, the petitioner's mother made representation before the first respondent. Till now, no action has been taken by the respondents.

7. The land measuring an extent of 0.30.0 or 0.86 cents in Survey No.709/4 in Devannagoundanur Village, Kuppanur Post, Sangagiri Taluk, Salem District was allotted and regulated in favour of the petitioner's father and the seventh respondent by resolution dated 05.12.1994, had given recommendation for the allocation of lands and the father of the petitioner was paying Kists to the Government till the year 2007, since the revenue officials informed that below 3 Acres of land it is not necessary to pay Kists receipts. The petitioner's possession and occupation of the lands are regulated under Section 134(2) of the Tamil Nadu Panchayats Act, 1994, by means of resolution dated 05.12.1994 passed by the seventh respondent and had approved allotment of lands in favour of the father of the petitioner in the year 1979. According to Rule 3 of the Tamil Nadu Panchayat Rules, the petitioner using the lands for the same purpose for which it is originally intended to allotted in favour of the petitioner's father and they are paying fees under Rule 7 of the Tamil Nadu



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Panchayat Rules for the use of the said lands.

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8. Learned counsel appearing for the petitioner submitted that the eighth and ninth respondents on 25.07.2019 came to the petitioner's lands along with some Government Officials, interfered with their peaceful possession and illegally measured the petitioner's lands and when he questioned the same, they stated that the first respondent has now taken steps to grant the lands by way of a Scheme for construction of building for Agricultural Research Institute. The petitioner and his mother are in actual physical possession of the lands in Survey No.709/4 with an extent of 86 cents in Devennagoundanur Village, Kuppanur Post, Sangagiri Taluk, Salem District. The respondents without following due process of law, had now taken emergent steps to dispossess the petitioner and his mother and take their lands for construction of building for their Agricultural Research Institute.

9. Learned counsel appearing for the petitioner submitted that the resolution passed by the sixth respondent dated 05.12.1994 vide Subject No.35/Resolution No.35 by which, the lands were allotted to the father of the petitioner and the same is still in force and not cancelled by way of any resolution till date.



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10. Learned counsel appearing for the petitioner drew attention of this Court to the Circular issued by the third respondent dated 24.09.1992 in O.Mu.No.7142/1992 in which, the handing over of the lands to the petitioner is under process. In the Circular it is stated that since the land is “Thoppu Poramboke” and steps have been taken to reclassify the land as “Assessed land” and after such reclassification of lands, representation will be taken into consideration by the third respondent. He further submitted that the Commissioner, Sangagiri Panchayat Union, Salem District sent communication bearing O.Mu.No.5483/94/A3 dated 09.12.1994 to the third respondent, in which, it is mentioned that Devegannagoundanur Village Survey No.709/4, Thoppu Poramboke, 0.31.0 hectares of land, has to be classified as “Tharisu Nilam/Assessed Land”, to hand over the same to the father of the petitioner namely P.Srinivasan as per the resolution of the Sangagiri Panchayat Union, Salem District.

11. Learned counsel appearing for the petitioner further submitted that the Assistant Director (Ex-Servicemen Welfare Board) the fourth respondent has written a Letter/Proceedings in Na.Ka.No.8293/2010/A6 dated 09.11.2010 to the third respondent. It reads as under:-



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“முன்னாள் படைவீரர் நலன் கருதியும், அவர் நாட்டிற்கு ஆற்றிய அரும்பணியினை கருத்தில் கொண்டும், கால் ஊனமுற்ற நிலையினை கருதியும் அவரது கோரிக்கையை சிறப்பு வகையாக ஏற்று மேற்படி நிலத்திற்கு பட்டா வழங்குவதற்குரிய முன்மொழிவுகளை வருவாய் கோட்டாச்சியர் மூலம் மாவட்ட ஆட்சியருக்கு அனுப்பி வைக்குமாறு அன்புடன் கேட்டுக்கொள்கிறேன்.”

12. Despite the request made by the Assistant Director (Ex-Servicemen Welfare Board) the fourth respondent, no action was taken by the first to third respondents to issue Patta in favour of the mother of the petitioner/the petitioner till date.

13. In the month of November 2019, the counter affidavit was filed by the third respondent and adopted by the first, second, eighth and ninth respondents, wherein, it is stated that the application given by the petitioner before the third respondent and the application was underwent due process of law and the same was recommended by the District Collector, Salem vide Roc.No.1223/2000/K3 dated 27.03.2002 that the land in Devennagoundanur Village, Kuppanur Post, Sangagiri Taluk, Salem District bearing Survey No.709/4 about an extent of 0.31.0 hectares shall be assigned to Late M.Srinivasan, who is the father of the petitioner. In the above recommendation, the District Collector has



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recommended that one time land value of Rs.59,656/- and stone cost and sub-division cost shall be collected from the petitioner's father. The file which was returned on 11.07.2002 from the Government for want of current land valuation of the land and due to non-interest of the petitioner's father in paying the land value, the petitioner did not pursue the matter and further he and his father have not shown any interest to pay the land cost, hence the proposal has not proceeded further.

14. The reasons stated by the respondents for not allotting the land to the petitioner are as follows:-

- i. The land is very near to a religious structures, where the Islamic people come and pray large numbers during the festival season like Ramadan, Muharram etc.
- ii. The cost of the land which was estimated during the year of 2002 to the petitioner is Rs.59,000/- has increased multiple times and issuance of assignment to the petitioner is not possible.
- iii. The petitioner is an employee of state run marketing corporation called TASMAL. Therefore, this land is ineligible for any such assignment.



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iv. Moreover the Government has allotted the land for Agriculture Engineering Department which serves the needs of local agricultural community. This is very essential for the local area to sustain agriculture.

15. Heard both sides and perused the materials available on record.

16. The main contention of the petitioner is that the resolution passed by the sixth respondent dated 05.12.1994 vide Subject No.35/Resolution No.35 is still in force and the same is not revoked or cancelled by the Sangagiri Panchayat Union till date and the petitioner is also in possession of the property.

17. It is noticed that the Assistant Director (Ex-Servicemen Welfare Board) the fourth respondent has written a Letter/Proceedings in Na.Ka.No.8293/2010/A6 dated 09.11.2010 to the third respondent. It reads as under:-



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“முன்னாள் படைவீரர் நலன் கருதியும், அவர் நாட்டிற்கு ஆற்றிய அரும்பணியினை கருத்தில் கொண்டும், கால் ஊனமுற்ற நிலையினை கருதியும் அவரது கோரிக்கையை சிறப்பு வகையாக ஏற்று மேற்படி நிலத்திற்கு பட்டா வழங்குவதற்குரிய முன்மொழிவுகளை வருவாய் கோட்டாச்சியர் மூலம் மாவட்ட ஆட்சியருக்கு அனுப்பி வைக்குமாறு அன்புடன் கேட்டுக்கொள்கிறேன்.”

18. This Court is not inclined to accept the above reasons stated by the respondents for not allotting the land to the petitioner for the following reasons:

- (1) The land may be near to the religious structures as on date, but when the land was allotted to the petitioner way back in the year 1994, whether the same existed or not was not clarified by the respondents in their counter affidavit.
- (2) The petitioner is not asking Patta in his name but only in the name of his mother Lalitha and wife of Late M.Srinivasan, the allottee of the land.
- (3) The value of the land has increased multiple times that is the reason the respondents are not inclined to issue Patta to the extent of 0.30.0 or 0.86 cents.
- (4) When the land is in possession of the petitioner's mother Lalitha and



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the panchayat resolution is in force till date, the respondents cannot allot the same for Agricultural Engineering Department.

19. When the Writ Petition was on the admission stage, this Court recorded the submissions made by the learned counsel for the petitioner that the petitioner is in occupation of the land at present and passed an order dated 05.09.2019, interim injunction restraining the respondents from interfering with the peaceful possession of the petitioner's land until further orders. Till now, the petitioner is in possession of the property.

20. This Court on an earlier occasion i.e., on 24.06.2024, directed the learned Government Advocate appearing for the first, second, third, eighth and ninth respondents to get instructions whether the proceedings recommendations by the District Collector, Salem vide Roc.No.1223/2000/K3 dated 27.03.2002 was communicated to the petitioner. If so, the copy of the same with acknowledgment proof has to be filed by way of typed set of papers and posted the case on 08.07.2024 “for orders”.

21. Thereafter, again the case was listed for hearing on 12.07.2024. On 12.07.2024, the learned Government Advocate appearing for the respondents submitted that the file was not traceable since the same is



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pertaining to the year 2002 and requested time to get instructions or to file a status report. She would further submit that the respondents are willing to give Patta of 0.5 cents alone and not for the total extent of 0.86 cents. Since the remaining land of 0.80 cents, the Government has allotted the land for Agricultural Engineering Department and the same will be useful for local agricultural community. The petitioner is an employee State Marketing Corporation Limited called TASMAC.

22. This Court is not inclined to accept the above reasons for not issuing Patta to the petitioner for the simple reason that the land was allotted way back in the year 1994 vide Subject No.35/Resolution No.35 of the sixth respondent dated 05.12.1994 to the father of the petitioner namely Late M.Srinivasan and not to the petitioner. The petitioner's father constructed a small house in the subject matter land and residing there for more than 3 decades and paying the electricity bills, taxes, kists and fees to the Government until 2007.

23. In view of the above factual matrix of the case and considering the fact that the petitioner's father Late M.Srinivasan was an Ex-Servicemen (MEG), physically challenged person and in order to



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appreciate/honour and recognize his contribution for the services rendered to the nation, the third respondent is directed to issue Patta in favour of the petitioner's mother with respect to the lands measuring about 0.30.0 or 0.86 cents situated in Survey No.709/4 in Devannagoundanur Village, Kuppanur Post, Sangagiri Taluk, Salem District, within a period of three months from the date of receipt of a copy of this order.

24. In the result, this Writ Petition stands allowed. No costs. Connected Writ Miscellaneous Petitions are closed.

02.08.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

- 1.The District Collector,
Chengalpattu, Chengalpattu District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Chengalpattu, Chengalpattu District.



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