

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.21744 of 2007

and

M.P.No.1 of 2014

1.Nesammal

2.Christinal

3.P.Natarajan

4.N.Latha

5.N.Sarala

6.Granob

7.N.Hebsiboy

8.P.Joice

9.P.Thangam Pildhas
(All represented by their
Power Agent Nesamony)

... Petitioners

vs.

1.The Special Commissioner &
Commissioner for Land Administration
Chepauk, Chennai

2.The State of Tamil Nadu
Forest Department

PRAYER: Writ petition is filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records of the first respondent in his proceeding No.K4/2468/07, dated 22.02.2007, quash the same and direct the first respondent to exercise the powers under Sections 15 and 17 of the Madras Act 30 of 1964 in respect of the orders passed by the Special Commissioner and Commissioner of Land Administration, dated 03.03.1997 and 19.08.2002 and decide the claim of the petitioners in respect of the property having an extent of 1153.50 Acres in R.S.No.783 and 779 in Azhagia Pandiapuram Village, Thovalai Taluk, Kanyakumari District in the State of Tamil Nadu after giving an opportunity of being heard to the petitioners.

For Petitioner : No appearance for P1 & P2
Mr.R.Arvind &
Mr.K.Muthu Ramalingam for P3 to P9

For Respondents : Mr.M.S.Ramesh, A.G.P., for R1
Mr.N.Inbanathan, G.A., for R2

ORDER

Reserved on : 13.10.2014

Pronounced on : 21.12.2015

The prayer in the writ petition is for issuance of a writ of certiorarified mandamus to quash the impugned order, dated 22.02.2007, whereby and whereunder the first respondent has dismissed the petitions filed by the petitioners to review and to reopen the proceedings, dated 03.03.1997 and 19.08.2002, passed by him, and to direct the first respondent to exercise powers envisaged under Sections 15 and 17 of the Madras Act 30 of 1964 in respect of the said proceedings, dated 03.03.1997 and 19.08.2002, and to decide the claim of the petitioners in respect of the property, measuring about 1153.50 Acres, comprised in R.S.Nos.783 and 779 of Azhagia Pandiapuram Village, Thovalai Taluk, Kanyakumari District, after giving an opportunity of being heard to the petitioners.

2. The short facts of the case are as follows:

According to the petitioners they are the legal heirs of Late.Paulish Nadar, who had properties in Alagiapandiapuram Village, Kanyakumari District. A larger extent of landed property, in Old Survey Nos.2826/1, 2827, 2856, 2858 and 2959, in R.S.Nos.783 and 779, measuring about 1229.04 Acres, originally belonged to Thiruvancore Samasthanam. The Maharaja of Thiruvancore Samasthanam gave the said landed property, measuring about 1229.04 Acres, to the ancestors of one Govindan Nambudripad long ago and he was in possession and enjoyment of the said landed property. However, at

the time of settlement of lands in Travancore State, due to lack of proper enquiry by the Settlement Officers, a portion of the said landed property was notified as "Poromboke". Hence, he filed a suit, against Travancore Cochin State, in O.S.No.52 of 1958, before the learned District Munsif, Nagercoil. The suit was decreed and as against the said Judgment and Decree, the State of Madras preferred an appeal in A.S.No.258 of 1959, before the learned Sub Judge, Nagercoil, and the appeal was dismissed and the Second Appeal preferred against the said Judgment and Decree of the learned First Appellate Judge was also dismissed by this Court vide Judgment and Decree, dated 14.02.1963. As such the Judgment and decree made in O.S.No.52 of 1958 has become final and the Judgment and Decree of the Trial Court has confirmed the possession of the subject property by the said Govindan Nambudripad. However, the settlement authorities classified the subject landed property as "Kadu Proromboke". The pre-existing title in favour of the said Govindan Nambudripad, which was confirmed by the Decree of the Civil Court, has not been taken into consideration by the settlement authorities while classifying the subject landed property as "Poromboke".

3. Further, the petitioners have submitted that after the demise of the said Govindan Nambudirpad, his son Padmanabhan Nambudripad, filed an application, during 1992, before the first respondent Special Commissioner and Commissioner for Land Administration for the purpose of carrying out the

Judgment and Decree of the Civil Court by making necessary corrections in the settlement records as well as in the revenue records. While the said Govindan Nambudripad was alive, on 05.12.1966, he executed a Dhanam Deed (Gift Deed) settling about 1153.50 Acres in Alagiapandiapuram Village to and in favour of the said Paulish Nadar.

4. The petitioners have further submitted that in the meantime, the Madras (Transferred Territory) Ryotwari Settlement Act, 1964 came into force for the District of Kanyakumari and as per the provisions of the said Act, Assistant Settlement Officer and Additional Settlement Officers were appointed to resurvey the lands in Kanyakumari District. They had acted in an indifferent manner and had failed to classify the lands as Patta lands, which belonged to the petitioners based on the Judgment and Decree of the Trial Court and as well as the Dhanam Settlement executed by Govindhan Nambudripad subsequently, but on the other hand, they had classified the same as “Kadu Poramboke”. Aggrieved by the same, the said Paulish Nadar preferred an appeal before the Board of Revenue, constituted under Section 15 of the Madras (Transferred Territory) Ryotwari Settlement Act, 1964, in B.P.Rt.,No.75/75. The Board of Revenue, after careful consideration of all the aspects and based on the documents, deposits, vide Order dated 04.11.1977, had directed the Deputy Tahsildar (Settlement) to pursue the matter appropriately and to grant Patta for the above said survey numbers (i.e.783

and 779 of Alagiapandiapuram Village) in favour of Paulish Nadar. Accordingly, the said Paulish Nadar made representations to the authorities concerned for issuance of Patta in respect of Survey Nos.783 and 779 of Alagiapandiapuram Village. Since no action was taken, the said Paulish Nadar filed a suit in O.S.No.111 of 1984, praying for a Judgment and Decree of declaration, declaring that he is the title-holder of the subject landed property measuring 1153.50 Acres. However, subsequently, he had withdrawn the suit as he thought it fit to pursue the Government to issue Patta for the subject landed property.

5. Further, the petitioners have submitted that when the said Paulish Nadar was pursuing the matter with the Government, the Government, vide G.O.Ms.No.51, Forest and Fisheries Department, dated 12.01.1980, had declared the land in Survey No.783, as "Reserved Forest Land". Aggrieved by the same, the said Paulish Nadar filed a suit in O.S.No.364 of 1985 and the same was dismissed by the Trial Court, on 15.08.1987. Challenging the same, he preferred an appeal, in A.S.No.100 of 1987, and the same was also dismissed by the First Appellate Court. Thereafter, the said Paulish Nadar filed a writ petition before this Court, in W.P.No.5424 of 1988, and the same was also dismissed, on 08.08.1988, on the ground that the petitioner had failed to prove that he was in possession and enjoyment of the land in question. Subsequently, the said Paulish Nadar filed another writ petition, in

W.P.No.6721 of 1988, before this Court, challenging G.O.Ms.No.51, Forest and Fisheries Department, dated 12.1.1980. This Court, by Order, dated 27.03.1997, dismissed the said writ petition citing reason that the petitioner had inadvertently omitted to mention the details relating to the suit in O.S.No.365 of 1984, A.S.No.100 of 1987 and the subsequent W.P.No.5424 of 1988. Due to inadvertence, instead of approaching this Court to implement the Order of the Board of Revenue, dated 04.11.1977 in time, the said Paulish Nadar sought to file suits and appeal suits and after proper advise, finally he filed a writ petition, in W.P.No.19368 of 1990, before this Court seeking direction to the respondents therein to implement the order of the Board of Revenue, dated 04.11.1977. However, this Court, by Order dated 09.03.1993, dismissed the writ petition.

6. The petitioners have further submitted that in the meantime, the Board of Revenue, constituted under the Madras Act 1964, was abolished and hence, the said Paulish Nadar filed an application before the first respondent for issue of Patta in respect of the landed property in Survey Nos.783 and 779. Only at that time, he came to know that one Padmanabhan Nambudri, son of Govindan Nambudripad, filed a similar application seeking issuance of Patta, in respect of the said landed property, in his favour, without disclosing the fact that his father Govindan Nambudripad gifted an extent of 1153.50 Acres in favour of the said Paulish Nadar. The first respondent, by order dated

03.03.1997, rejected the claim of the said Paulish Nadar as well as the said Padmanaban Nambudripad stating that the Gift Deed executed by the said Govindan Nambudripad and the order passed by the Board of Revenue in favour of the said Paulish Nadar are not genuine. The conclusion arrived at by the first respondent was purely on the basis of the counter affidavit filed by the first respondent in the W.P.No.19369 of 1990. While filing the counter affidavit, the first respondent had not relied on any document to show that the order of the Board of Revenue was not genuine. However, this Court, dismissed W.P.No.19369 of 1990 on the ground that the same cannot be agitated after a lapse of 20 years. The proceedings, which culminated in passing the order by the first respondent on 03.03.1997, were not the proceedings arisen under the provisions of the Ryotwari Settlement Act and it was only an application for re-classification of settlement register.

7. Further, the petitioners have submitted that against the order of the first respondent, dated 03.03.1997, they had preferred a revision, on 01.04.1997, before the Government. Since the revision petition was not disposed of by the Government, they filed a writ petition in W.P.No.5082 of 2001, seeking a direction to the Government to dispose of the revision petition on merits and this Court, by Order dated 30.03.2011, disposed of the said writ petition, directing the Government to dispose the revision petition within a period of eight weeks. Subsequently, the Government, by order dated

08.11.2001, disposed of the revision petition, holding that the Government has not been mentioned as revisional authority against the orders of the erstwhile Board of Revenue. Further, under Section 19 of the Tamil Nadu Transferred Territory Ryotwari Settlement Act, the Government have powers to issue orders of directions of a general character in respect of any matter relating to the powers and duties of the erstwhile Board of Revenue and finally they were informed that the Government could not interfere in the orders passed by the Commissioner of Land Administration under the said Act.

8. The petitioners have further submitted that aggrieved by the order of the Government, they had preferred a contempt petition, in Cont.P.No.649 of 2001, before this Court and this Court, in its Order, dated 11.06.2002, observed that the revision was competent before the Commissioner of Land Administration and therefore the revision ought to have been transferred to the Commissioner of Land Administration and directed the Commissioner of Land Administration to dispose of the revision within a period of two months from the date of receipt of the copy of the order or on receipt of the copy of the order from the petitioners. In the meantime, the Government, vide letter dated 08.11.2001, informed the petitioners that revision shall lie with the Board of Revenue, under Section 15 of Madras (Transferred Territory) Ryotwari Settlement Act 1964. As per Section 15 of the Act, the Board of Revenue may

- (i) On its own motion call for and examine the records of

any proceeding under this Act or

- (ii) On application made by any landholder in the behalf call for and examine the records of any proceeding under this Act (not being a proceeding in respect of which an appeal lies to the Director under sub section (2) of Section 14) to satisfy itself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein and if in any case, it appears to the Board of Revenue that any such decision or order should be modified, annulled or remitted for reconsideration, it may pass orders accordingly.

9. Further, the petitioners have submitted that inspite of specific provision envisaged in the Act as well as the Order of this Court in Cont.P. No.648 of 2001, the first respondent failed to interfere in the matter on the ground that the Special Commissioner of Land Administration, in his order dated 03.03.1997, had discussed the subject matter in detail and rejected the claim of the petitioners, after having enquired the petitioners and the Forest Officials. The proceedings of the first respondent, dated 03.03.1997, is not a revision made as per the provisions of the Act, but it was a re-classification of settlement filed before the Commissioner of Land Administration. Hence, they filed another application before the first respondent to dispose of the

application on merits as provided under Section 15 and 17 of the Act 30 of 1964. However, the first respondent, without going into the merits of the case, has simply dismissed the application on the ground that the issue in question is a settled one and hence directed the petitioners to seek remedy before the competent Court. Aggrieved by the same, they had filed a writ petition, in W.P.No.13195 of 2007, before this Court and the same was dismissed as withdrawn with a liberty to file a fresh writ petition. In such circumstances, they have filed this writ petition seeking the relief as stated above.

10. The first respondent has filed a counter affidavit stating that the Ryotwari Settlement in Kanyakumari District was introduced during 1965 under the provision of Tamil Nadu (Transferred Territory) Act, 1964 (hereinafter called as “the Act”). Alagiapandiapuram Village in Thovalai Taluk was taken over by the Government and ryotwari settlement was introduced under the Act. During the settlement, the landed property, to an extent of 1153 Acres, in R.S.Nos.783 and 779 of Alagiapandiapuram Village was classified and recorded as “Kaadu Poramboke”. On 12.01.1980, the said landed property has been classified as “Asambu Reserved Forest Land”, vide G.O.Ms.No.51, Forest and Fisheries Department, under Section 13 of Forest Act, 1882 and the landed property is under the control of the Forest Department.

11. Further, the first respondent has submitted that whileso, on 07.01.1992, one Padmanabhan Nambooripad filed a petition seeking Patta for the said landed property on the ground that he has obtained a Decree from the Civil Court. When the petition of Padmanabhan Nambooripad was pending consideration, one Paulish Nadar, predecessor-in-title of the petitioners, filed a petition, on 19.02.1994 and 12.05.1994, stating that he was the absolute owner of the aforesaid landed property, by virtue of a Gift Deed, dated 05.12.1966, executed by one Govindan Namboodripad in his favour. Further, he had claimed that the Board of Revenue (SE) vide its proceedings, dated 04.11.1977, directed the Deputy Tahsildar (SE) to issue Patta in his favour. However, the Assistant Settlement Officer, Nagercoil, had not carried out the order of the Board of Revenue and rejected the plea for issuance of Patta. These petitions were taken up for hearing on 03.09.1996, 17.09.1996, 22.10.1996 and 12.11.1996, after giving due notices to the District Forest Officer, Nagercoil.

12. The first respondent has further submitted that he rejected the claim of the said Padmanabhan Namboodripad and Paulish Nadar, after hearing all the parties, vide proceedings dated 03.03.1997, on the ground that the genuineness of the order, dated 04.11.1977, passed by the Board of Revenue (SE), on which the said Paulish Nadar made reliance, is questionable. Further, the said Paulish Nadar filed a suit, in O.S.No.111 of 1984, for

declaration of his title over the subject landed property and subsequently he had withdrawn the suit on 21.12.1984. Thereafter, he filed another suit, in O.S.No.364 of 1985, seeking permanent injunction of G.O.Ms.No.51, dated 12.01.1980, to declare the landed property in R.S.No.783 as reserved forest land. The said suit was dismissed by the Trial Court, on 15.09.1987, upholding that the suit lands were not Patta lands and the said Paulish Nadar was not in possession of the lands and the lands were reserved forest lands. The appeal preferred by the said Paulish Nadar, in A.S.No.100 of 1987, was also dismissed by the First Appellate Court. Subsequently, the said Paulish Nadar filed a writ petition in W.P.No.8424 of 1988 and the same was also dismissed by this Court vide Order, dated 08.08.1988. Thereafter, he filed another writ petition, in W.P.No.19368 of 1990, praying for implementation of order, dated 04.11.1977, passed by the Board of Revenue (SE) and the said writ petition was also dismissed on 09.03.1993, in limine. Subsequently, the said Paulish Nadar filed another writ petition, in W.P.No.8272 of 1994, seeking direction to the State that no Patta should be granted in favour of Padmanabhan Namboodripad and the said writ petition was also dismissed on 30.06.1994. Thus, the claim of the said Paulish Nadar had been contested throughout in many forums and came to be rejected.

13. Further, the first respondent has submitted that the said Padmanabhan Namboodripad made his claim based on the Judgment and

Decree in O.S.No.52 of 1958 as well as S.A.No.330 of 1961. The lands comprised in these survey numbers are totally different from the lands for which Patta was sought for based on the Judgment and Decree in S.A.No.330 of 1961. It is incomprehensible as to how the said Govindan Namboodripad and his son Padmanabhan Namboodripad made no attempt to seek title for the vast extent of lands for which petition had been filed during 1992 when the right was acquired during 1963 and it was confirmed by this Court. Infact, based on the Judgment and Decree in S.A.No.330 of 1961, the petitioners made a request to the Tahsildar, Thovalai, seeking setting-out the survey numbers, which had not included the survey numbers now claimed. Hence, it would be evident that Schedule-A property decreed in O.S.No.52 of 1958 did not include R.S.Nos.783 and 779.

14. The first respondent has further submitted that challenging the order passed by him, the petitioners preferred appeal to the Government during 1997 and when the appeals were pending, they had also filed a writ petition, in W.P.No.5082 of 2001, before this Court and this Court, by Order dated 30.03.2001, directed the Government to dispose the revision petitions filed by the petitioners in eight weeks. The Government, vide letter dated 08.11.2001, informed the petitioners that as per appeal provisions provided in the Tamil Nadu (Transferred Territory) Act, 1964, no revision lies with Government against the order of the Commissioner of Land Administration.

Apparently, the petitioners had suppressed the fact before this Court that the Commissioner of Land Administration had already passed order on 03.03.1997. Against the reply given by the Government, the petitioners had filed a contempt petition, in Cont.P.No.648 of 2001, and this Court by Order, dated 11.06.2002, directed the Commissioner of Land Administration to dispose of the revision petition within a period of two months.

15. Further, the first respondent has submitted that based on the order, dated 11.06.2002, passed by this Court, he had disposed of the said petition on the ground that in his order, dated 03.03.1997, he had already discussed the subject matter in detail and rejected the claim of the petitioners, according to the Tamil Nadu Transferred Territory Act, 30 of 1964, and as such there is no provision to review the order passed by the Commissioner of Land Administration. Subsequently, the petitioners, through their power agent, filed a review petition for issuance of Patta, on the same grounds and vide proceedings, dated 22.02.2007, they were informed that it is a settled matter and their claim has already been dismissed. Challenging the same, the petitioners filed a writ petition, in W.P.No.13195 of 2007, and this Court, by order dated 11.04.2007, dismissed the writ petition with liberty to file a fresh writ petition on any new cause of action.

16. The first respondent has further submitted that on 28.06.1993, the

said Padmanabhan Nambooripad filed a petition, under Section 15 of the Tamil Nadu (Transferred Territory) Ryotwari Settlement Act 30 of 1964, and he took up the said petition along with the petition filed by the said Paulish Nadar for enquiry and after hearing all the parties, he passed orders, on 03.03.1997. Since the Commissioner of Land Administration had already exercised his powers under Section 15 of the Act, his order has become final.

17. Further, the first respondent has submitted that as per appeal provisions, provided in the Tamil Nadu (Transferred Territory) Act, 1964, no revision lies with the Government against the order of Commissioner of Land Administration and the petitioners were informed the same. Furthermore, they had admitted that they have no title or whatsoever to the suit land and hence it has been evident that they were trying to derive title through the said Govindan Namboodripad. Based on the Judgment and Decree, in S.A.No.330 of 1961, the said Govindan Namboodripad filed a claim petition before the Tahsildar, Thovalai. While doing so, he had mentioned the Survey Nos.1891/359/2/44/55, 1435/18, 1435/19, 1959/6 and 1956, which are different from the lands for which Patta was sought for. Therefore, the rights acquired by the said Govindan Namboodripad relates to the survey numbers, which are not those specified in this writ petition and hence the A-Schedule property decreed in O.S.No.52 of 1958 had not included R.S.Nos.783 and 773 claimed by the petitioners. During the course of enquiry, the said Padmanaban Namboodripad had challenged that his father Govindan

Namboodripad had never executed any gift deed in favour of Paulish Nadar and claimed that the unregistered gift deed is a bogus one. At this juncture, it would be pertinent to mention the suit filed by the said Paulish Nader, in A.S.No.100 of 1987, wherein he claimed that he came into possession of the suit lands as a lessee under the original owner Govindan Namboodripad. The learned District Judge, Kanyakumari, had pointed out that if really Paulish Nadar claimed title by adverse possession, the legal heirs of Govindan Namboodripad should have been made as parties and a lessee could not be a owner of the property overnight without any written document. After the said decision only, Paulish Nadar staked his claim based on the unregistered gift deed and the said gift deed had never been mentioned in the proceedings of the suit in A.S.No.100 of 1987. Hence, it has been evident that the gift deed is an after-thought and fabricated one to create interest over the suit land.

18. The first respondent has further submitted that the claims of the petitioners are utter falsehood. After failing to achieve their goal to grab the Government forest lands under the guise of lease deeds, through O.S.No.364 of 1985 and A.S.No.100 of 1987, Paulish Nadar had filed W.P.No.19368 of 1990 before this Court to implement the orders of Board of Revenue, dated 04.11.1977. In the said writ petition, the Commissioner of Land Administration had filed his counter affidavit explaining reasons as to why the Board proceedings is a bogus one. This Court, by order, dated 09.03.1993,

dismissed the writ petition in limini as frivolous with costs of Rs.1,000/-. When the request for issuance of Patta by Padmanabhan Namboodripad was rejected for lack of evidence, Paulish Nadar had no locus standi to claim title based on the unregistered gift deed. The vast extent of 1153 Acres in R.S.Nos.783 and 779 had already been declared as "Government Reserved Forest Lands" by a notification, issued in G.O.Ms.No.51, Forest and Fisheries Department, dated 12.01.1980, under the provisions of Tamil Nadu Forests Act, 1882.

19. Further, the first respondent has submitted that the grounds relied on by the petitioners have no relevance. The subject landed property have all along been Government Forest Lands prior to and after settlement operations. The survey numbers had already been notified as Asambu Reserve Forest on 12.01.1980 and are under the control of the Forest Department. Furthermore, the notification issued in G.O.Ms.No.51, Forest and Fisheries Department, dated 12.01.1980, declaring Survey Nos.783 and 779, as Government Reserved Forest Lands, has not been challenged sofar. Moreover, Sections 15, 16 and 17 of the Act conferred power of revision to the Commissioner of Land Administration to call for and examine the records of any proceedings under this Act. On the petitions filed by the said Padmanabhan Namboodripad and Paulish Nader, the Commissioner of Land Administration had examined connected records, heard the parties and discussed the merits of the case.

The petitioners are estopped from making claims on the same grounds. Hence, there is no necessity to reopen the case and examine it afresh. If the request of the petitioner is conceded, it would only unsettle the settled matter. For these reasons, the first respondent has prayed for dismissal of the writ petition.

20. The learned counsel appearing for the petitioners 3 to 9 has submitted that 1229.04 Acres of land in R.S.Nos.783 and 799 originally belonged to Thiruvancore Samasthanam. The Maharaja of Thiruvancore Samasthanam gave the said land to the ancestors of one Govindan Nambudripad long ago. In such circumstances, the Settlement Officer notified a portion of the properties as "Poromboke". Aggrieved by the same, Govindan Nambudripad filed a suit against the State of Travancore Cochin in O.S.No.52 of 1958, before the learned District Munsif, Nagercoil and the same was decreed. Challenging the same, the State of Madras had preferred an appeal, in A.S.No.258 of 1959, before the learned Sub Judge, Nagercoil and the same was also dismissed. Similarly, the second appeal, preferred against the concurrent findings, had also been dismissed.

21. Further, the learned counsel has submitted that as per the Civil Court's Judgments, Govindan Nambudripad was in possession of the subject landed property. Therefore, the view taken by the Settlement Officer

classifying the subject landed property as Kaadu Poromboke runs against the judicial findings. Further, after the demise of Govindan Nambudripad, his son Padmanabhan Nambudripad had filed an application during 1992 before the first respondent to carry out the order of the Civil Courts by making necessary corrections in the settlement records as well as in the revenue records. Govindan Nambudripad while he was alive had executed a gift deed in favour of one Paulish Nadar, on 05.12.1966. In the meantime, Ryotwari Settlement Act, 1964 came into force for Kanyakumari District. As per the said Act, Assistant Settlement Officer and Additional Settlement Officers were appointed to resurvey the lands in Kanyakumari District. But, both of them acted in an indifferent manner and failed to classify the land, which belonged to Paulish Nadar based on the Judgment and Decree in O.S.No.132 of 1952, as Patta land. Therefore, he preferred an appeal before the Board of Revenue, who directed the Deputy Tahsildar (Settlement) to pursue the matter appropriately and grant Patta in favour of Paulish Nadar. Based on the said direction, Paulish Nadar submitted representations to the authorities concerned. Since no action was taken by the authorities concerned, he filed a suit in O.S.No.111 of 1984 seeking declaration. However, he had withdrawn the suit subsequently as he thought it fit to pursue the Government to issue Patta for the subject landed property. In such circumstances, the Government had passed an Order, in G.O.Ms.No.51, dated 12.01.1980, and declared the land in Survey No.783 as reserved forest land. The suit, appeal suit and writ

petition challenging the same had also been dismissed.

22. The learned counsel has further submitted that Paulish Nadar filed an application before the first respondent for issuance of Patta in respect of the subject landed property. Only at that point time, he came to know that one Padmanabhan Nambudri, son of Govindan Nambudri, also filed a similar application, without disclosing the fact that his father gifted an extent of 1153.50 Acres of land in favour of Paulish Nadar. The first respondent rejected their applications on the ground that the gift deed executed by Govindan Nambudripad and the order of the Board of Revenue are not genuine. Challenging the same, the petitioners filed a revision before the Government, on 01.04.1997. Since the revision was not disposed of, he filed W.P.No.5082 of 2001 seeking direction to the Government to dispose of the revision on merits and this Court, by order dated, 30.03.2001, directed the Government to dispose of the said revision within a period of eight weeks. Thereafter, the Government sent a letter, dated 08.11.2001, to the petitioners informing the rejection of the revision on the ground that revision shall lie with the Board of Revenue as per the provisions of Ryotwari Settlement Act. Challenging the same the petitioners filed another application for reclassification of the subject landed property and the same was also dismissed. Therefore, the learned counsel has prayed this Court to allow the writ petition.

23. The learned Additional Government Pleader appearing for the first respondent has submitted that the first respondent informed the petitioners that it is a settled matter and their claim has already been dismissed on 03.03.1997. Accordingly, the subject landed property was taken over by the Government as per the provisions of Ryotwari Settlement Act and subsequently it was classified as Forest Poromboke Land. One Padmanabha Nambudri filed a petition before the first respondent for issuance of Patta and the same was rejected. Similarly, one Paulish Nadar also filed a similar petition and the same was also dismissed. Thereafter, Paulish Nadar filed civil suits and writ petitions, which were all dismissed. Therefore, the learned Additional Government Pleader has prayed for dismissal of the writ petition.

24. The learned Government Advocate appearing for the second respondent has submitted that the subject landed property is under the control and occupation of the second respondent. The subject landed property has been classified as forest poromboke land. As per the decree of the Civil Court, the subject landed property is not covered and as such the decree of the Civil Courts cannot be executed over the subject landed property. For these reasons, the learned Government Advocate has prayed for dismissal of the writ petition.

25. On considering the facts and circumstances of the case, arguments

advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the District Munsif Court, Nagercoil, had decreed the suit in O.S.No.52 of 1958 and the same was also confirmed by the First Appellate Court as well as by this Court. Therefore, the petitioners' remedy seeking title before the Executive Authority is not maintainable. Hence, the above writ petition does not possess sufficient force to allow it and therefore it is liable to be dismissed.

26. In the result, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2015

Internet : Yes / No
Index : Yes / No

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To

1.The Special Commissioner &
Commissioner for Land Administration,
Chepauk, Chennai.

2.The Secretary,
Forest Department,
State of Tamil Nadu,
Fort St.George, Chennai

C.S.KARNAN, J.
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W.P.No.21744 of 2007
and
M.P.No.1 of 2014

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