

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.32583 of 2002

- 1.Unni Pokker Haji
- 2.Moideen (died)
- 3.Jemeela
- 4.Riyaz
- 5.Risla
- 6.Rishana

Petitioners 3 to 6 are impleaded
as per the order passed today (05.11.2015)
in W.P.M.P.No.107 of 2015, of this W.P

... Petitioners

Vs.

1. The Collector of Nilgiris,
Collector's Office,
Udhagamandalam, Nilgiris.
2. The District Forest Officer,
Gudalur.
3. The Forest Range Officer,
Gudalur.
4. The Assistant Settlement Officer,
Collector's Office (Janmam Land)
Udhagamandalam, Nilgiris.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents not to interfere with the possession of the petitioners in respect of the lands in S.Nos.477/1 and 402/1 in Pandanthara Village with a total extent of 25 acres.

For Petitioner : Mr.R.Dhamotharan

For Respondents 1 & 4 : Mr.S.Diwakar
Additional Government Pleader

For Respondents 2 & 3 : Mr.N.Inbanathan
Government Advocate
(For Forest Dept.)

O R D E R

The prayer sought for in the Writ Petition, is for issuance of Mandamus upon the respondents not to interfere with the petitioner's possession and enjoyment of the lands comprised in S.Nos.477/1 and 402/1, measuring an extent of 25 acres, situated at Pandanthara Village.

2. Heard Mr.M.Dhamotharan, learned counsel appearing for petitioners, Mr.S.Diwakar, learned Additional Government Pleader, for respondents 1 and 4, and Mr.N.Inbanathan, learned Government Advocate for respondents 2 & 3.

3. The case of the petitioners are as follows:-

i) The petitioners are agriculturists and they are in possession and enjoyment of the said lands, as described in preamble portion of this order, since 1991. They would state that prior to their enjoyment, one Hamsa was in possession, and they had entered into an agreement with the said Hamsa, and that is how, they have come into possession of the property. The said Hamsa purchased the property from Sankaran Chetty and Perumal Chetty, who had taken the lands on lease from Nilambur Kovilakam in the year 1949.

ii) The lands in question along with other lands form part of the Chinna Thampatti Estate and Nilambur Kovilakam Estate. The petitioner's vendor/Hamsa is stated to have developed the lands into a Plantation, and also constructed a house in the said land, and the house has been assessed by Devarchola Panchayat in the name of Hamsa, and house tax has been remitted by her. The petitioners claim is that, after they purchased the property from their Vendor/Hamsa, property tax assessment stood transferred in their names, and thereupon, they have been regularly remitting the house tax, and, they also have been granted with electricity service connection.

iii) The petitioners as well as their predecessor-in-title have been cultivating the lands personally, and therefore, they are entitled for patta, in terms of Gudalur Jenmam Estate (Abolition and Conversion into Ryotwari Act) 1969. Seeking patta, the petitioners are stated to have filed two separate applications under Rule 8(1) of the Rules made under the said Act in the proper form to the fourth respondent/Assistant Settlement Officer, on 26.10.1999 and 28.10.1999, and the said applications are stated to be still pending. The petitioners are unaware as to why the fourth respondent has not passed any orders on the applications, nor taken up the applications for any enquiry. Whiles, alleging that the Officials of the Forest Department entered into the petitioners' property, ransacked the property and attempted to forcibly dispossess, necessitating the petitioners to approach this Court by way of present Writ Petition.

4. The petitioners' contention is that there was no notice issued by any of the Authorities, and when the applications for grant of patta are pending before the fourth respondent, the Forest Officials have no jurisdiction to interfere with the petitioners' possession and enjoyment of the said lands.

5. At the time, when the Writ Petition was entertained, an order of interim injunction was granted by this Court on 13.08.2002. To vacate the said interim injunction order, the Forest Department filed a W.V.M.P.No.1602 of 2002, and when the said Vacate Stay Petition was heard, this Court made the order of interim injunction absolute, by order dated 23.04.2003. Thus, as on date, the petitioners have the benefit of the order of injunction granted in their favour. Thereafter, the matter has been listed from time to time, and on 7.2.2012, the Court recorded the presence of the Forest Range Officer, Gudalur, and directed the learned Special Government Pleader (for Forest Cases) to get instructions as regards the stage of the applications, dated 26.10.1999 and 28.10.1999 filed before the fourth respondent, as to whether those applications are disposed or not, and such other details. With that direction, the personal appearance of the Forest Range Officer was dispensed with. Even today, when the matter is taken up, there is no instructions given by the fourth respondent to the learned Special Government Pleader as regards the stage of the applications before the fourth respondent. In such

circumstances, this Court is not inclined to keep the matter pending anymore and proposes to dispose of the same. Since it is the specific case of the petitioners that they have submitted applications filed under Rule 8(1) of the Rules made under the Gudalur Jenmam Estate (Abolition and Conversion into Ryotwari Act) 1969 Act before the fourth respondent, and the copies of those applications are filed in the typed-set of papers, this Writ Petition is disposed of with the following directions :-

i) The fourth respondent is directed to dispose of the applications dated 26.10.1999 and 28.10.1999, filed by the petitioners under the aforesaid enactment, after following the procedures contemplated under the Gudalur Jenmam Estate (Abolition and Conversion into Ryotwari Act) 1969 Act, and afford an opportunity of personal hearing to the petitioners.

ii) The fourth respondent is directed to conclude the enquiry and pass final orders within a period of six months from the date of receipt of a copy of this order.

iii) Since the petitioners have the benefit of the order of interim injunction from 2002, this Court is of the view that the position prevailing as on date should be maintained as such, and possession as regards the land in question should be maintained as such till a decision is taken by the fourth respondent in the applications dated 26.10.1999 and 28.10.1999. Status-quo as regards the property in question prevailing as on today also shall continue to be maintained.

iv) The petitioners are restrained from in any manner alienating/encumbering/dealing with the suit property, or putting up any construction in the subject property, till the applications filed by them are disposed of by the fourth respondent.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sd

To

1. The Collector of Nilgiris,
Collector's Office,
Udhagamandalam, Nilgiris.
2. The District Forest Officer,
Gudalur.
3. The Forest Range Officer,
Gudalur.
4. The Assistant Settlement Officer,
Collector's Office (Janmam Land)
Udhagamandalam, Nilgiris.

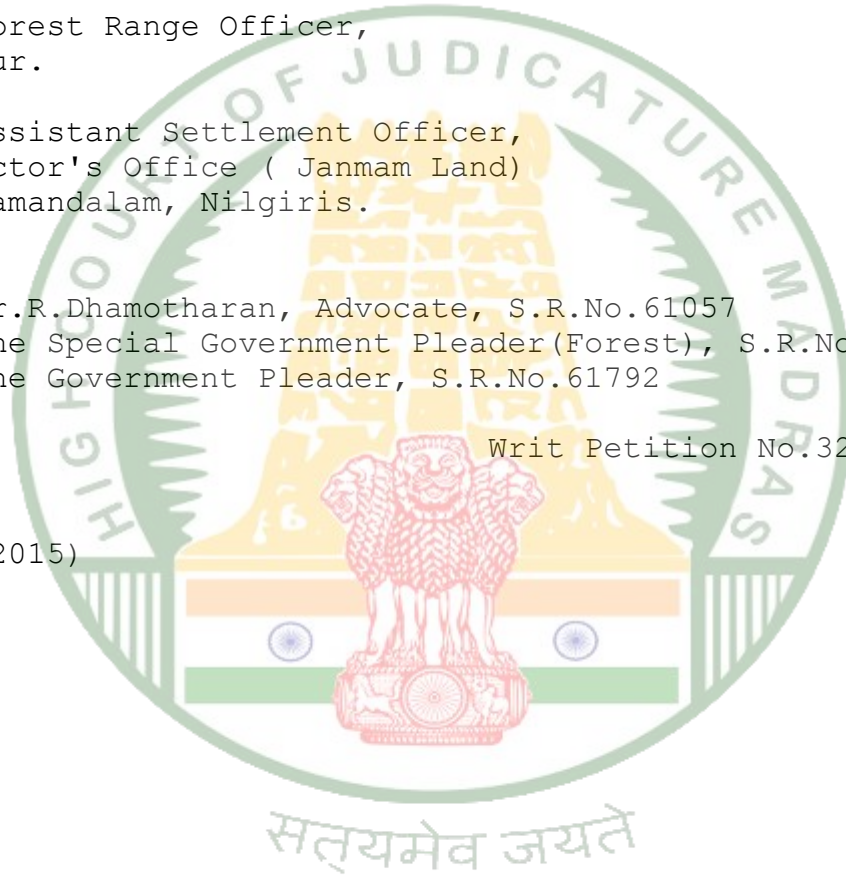
+1cc to Mr.R.Dhamotharan, Advocate, S.R.No.61057

+1cc to the Special Government Pleader(Forest), S.R.No.61269

+1cc to the Government Pleader, S.R.No.61792

Writ Petition No.32583 of 2002

GJ(CO)
CA(30/11/2015)



WEB COPY