



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 20.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

and

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.A.(MD)No.1270 of 2015 and

M.P.(MD).Nos.4 & 5 of 2015

and

C.M.P.(MD).No.108 of 2016

- 1.Kumar.
- 2.Muthuvel
- 3.Fernandes
- 4.Pathinettampadiyan
- 5.Janatha
- 6.Mallika
- 7.Annapoorani
- 8.Kannu

... Appellants/Third Parties
Vs.

- 1.Marimuthu ... 1st respondent/Writ Petition

2.The District Collector,
Ramanathapuram District.

3.The Revenue Divisional Officer,
Ramanathapuram District.

4.The Tahsildar,
Thiruvadanai,

Ramanathapuram District. ... Respondents 2 to 4/

Respondents 1 to 3

Writ Appeal has been filed under Clause 15 of the Letters Patent Act, against the order dated 12.08.2014, made in W.P.(MD). No.4846 of 2014 by a learned Single Judge of this Court.
Prayer in WP(MD). 4846/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in Na.Ka.No. A6/12250/2013 dated 28.02.2014 and quash the same as illegal and also direct the 3rd respondent to issue patta in the name of the petitioner as per the recommendation of the 2nd respondent and pass such other order.

For appellant	:	Mr.J.Barathan
For 1st respondent	:	Mr.S.Muthukrishnan
For respondents 2 to 4	:	Mr.N.S.Karthikeyan,
		Addl. Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **R.SUBBIAH, J.**)

<https://hcservices.ecourts.gov.in/hcservices/>

This writ appeal has been filed by the appellants / third parties by obtaining leave from this Court to file an appeal as against the order, dated 12.08.2014 passed by a learned Single Judge of this Court in W.P.(MD).No.4846 of 2014.



2.The first respondent in this appeal has filed the writ petition in W.P.(MD).No.4846 of 2014 challenging the order passed by the 4th respondent herein rejecting the application for grant of patta in respect of the land measuring to an extent of 5.09.0 hectares of land in various survey numbers situated at Choliakudi Village, Thiruvadanai Taluk, Ramanathapuram District and to consequently direct the fourth respondent to consider the claim of the petitioner for grant of patta, based on the judgment and decree, dated 09.06.2003, passed by the learned Principal District Judge, Ramanathapuram, in A.S.No.111 of 2000.

3.0. The case of the first respondent before the learned Single Judge is that he had purchased 5.09.05 hectares of land in various survey numbers situated at Choliakudi Village, Thiruvadanai Taluk, Ramanathapuram District from one Mahaboob Mariyam Beevi and two others. A portion of the said property was originally purchased under a registered sale deed by the husband of the said Mahaboob Mariyam Beevi under a registered sale deed dated 16.11.1954 and the remaining portions were their ancestral properties. After the death of her husband, the said Mahaboob Mariyam Beevi had become the absolute owner of the entire property and as such, she had been enjoying the said property.

3.1. While so, the Revenue Divisional Officer declared that the Government is going to assign the said lands. Hence, the said Mahaboob Mariyam Beevi filed a suit against six persons, including the respondents 2 and 3. But, the said suit was dismissed. Aggrieved by the said judgment, she had preferred an appeal in A.S.No.111 of 2000. The learned Principal District Judge, Ramanathapuram, decreed the suit in favour of the said Mahaboob Mariyam Beevi. As against the said judgment and decree, the respondents therein have not filed any appeal. In that situation, one Rajendran, who was the power agent of the Mahaboob Mariyam Beevi, filed a writ petition in W.P.(MD).No.6275 of 2006 seeking a direction to the revenue authorities to issue patta for the above said properties. But, this Court has passed an order directing the revenue authorities to consider the representation of the said Mahaboob Mariyam Beevi within a period of four weeks. After considering the representation of the said Mahaboob Mariyam Beevi, the second respondent herein issued patta in favour of the said Mahaboob Mariyam Beevi.

3.2. Thereafter, the first respondent herein has purchased the said properties. He submitted a petition to the second respondent in person on 21.08.2013 to change the patta and other revenue records in his name in respect of the said lands. Since there was no response to the same, the first respondent herein has filed W.P.(MD)No.19813 of 2013 before this Court for a direction to the revenue authorities to issue patta in his name. In the said writ petition, this Court has given a direction to the revenue authorities to consider the representation of the first respondent within a period of eight weeks. The fourth respondent herein has conducted enquiry as per the order of this Court and passed an order dated 28.02.2014 rejecting the application of the first respondent stating that the said lands belong to the Government

and hence, patta cannot be granted in favour of the first respondent. Aggrieved over the same, the first respondent again approached this Court in W.P.(MD).No.4846 of 2014.

4. In W.P.(MD).No.4846 of 2014, it has been contended by the learned counsel for the first respondent that the judgment and decree in A.S.No.111 of 2000, which has been passed in favour of his vendor viz., Mahaboob Mariyam Beevi in respect of the subject lands, has become final and the same would prevail over any order that might have been passed by the revenue authorities, invoking their power under the Revenue Standing Order. Thus, he sought for quashing of the order passed by the 4th respondent dated 28.02.2014. Accordingly, the learned Single Judge quashed the said order and directed the 4th respondent herein to consider the claim of the first respondent, taking into consideration the decision of the learned Principal District Judge, Ramanathapuram in A.S.No.111 of 2000 dated 09.06.2003 and grant patta to the first respondent subject to the compliance of the first respondent with the other conditions. Aggrieved over the order passed by the learned Single Judge of this Court, the present writ appeal has been filed by the third parties by obtaining leave of this Court.

5. It is the main contention of the learned counsel for the appellants / third parties that the lands in question are promboke land which belong to the Government. The appellants herein are representing the fishermen in that locality. The appellants and other fishermen have ancestrally been residing in the said land for more than 100 years by constructing houses and paying property tax, etc. to the Panchayat. The appellants herein had filed a suit in O.S.No.51 of 2006 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanani for declaration of their right, as against the first respondent herein and the revenue officials, and subsequently, the said suit was dismissed. As against the said judgment, the appellants have filed A.S.No.19 of 2010 on the file of the Subordinate Court, Ramanathapuram and the same is still pending. That apart, the learned counsel for the appellants has also submitted that since the Government has not chosen to file any appeal as against the judgment in A.S.No.111 of 2000, the appellants have preferred an appeal as against the said judgment and the same is pending in SR stage as there is delay in filing the appeal. When that being the position, the direction given by the learned Single Judge of this Court to consider the claim of the first respondent based on the judgment in A.S.No.111 of 2000 is not legally sustainable. Thus, he prays for dismissal of the order passed by the learned single Judge of this Court in W.P.(MD).No.4846 of 2014.

6. The grievance of the appellants is that though the land in question is a promboke land and the appellants herein and other fishermen have ancestrally been residing in the said land, their rights are in peril, since the Government has not effectively
<https://hccse.courtindia.in/services> appeal in A.S.No.111 of 2000 and failed to file a second appeal as against said judgment. Therefore, they have taken steps to file an appeal as a third party and the same is now pending before this Court in delay condonation stage. While so, the first respondent, suppressing these facts, obtained the

impugned order and hence, the same is liable to be set aside.

7. We are of the view that absolutely, there is no merit in the submission of the learned counsel for the appellants, because as on date, there is a declaratory relief in favour of the vendor of the first respondent and the said judgment and decree passed in A.S.No.111 of 2000 has not been set aside so far. The suit filed by the appellants, claiming their rights over the lands in question, was already dismissed. Thus, we find that the appellants have no *locus standi* to oppose the issuance of patta in favour of the first respondent. There is no error or illegality in the order passed by the learned Single Judge of this Court. Hence, the appeal is liable to be dismissed and accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The District Collector,
Ramanathapuram District.
- 2.The Revenue Divisional Officer,
Ramanathapuram District.
- 3.The Tahsildar,
Thiruvadanai,
Ramanathapuram District.

+1 cc to MR.T.R.JEYAPALAM, ADVOCATE, SR NO:82734
+1 cc to MR.S.MUTHUKRISHNAN, ADVOCATE, SR NO:82070
+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO:82303

gcg
sm/cm/msa/01.02.2017/4p/7c

Writ Appeal (MD) No.1270 of 2015
20.12.2016