

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.08.2017

CORAM

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P.Nos.336 and 337 of 2010

- 1.E.Syed Hussain
- 2.Syed Athavilla
- 3.Syed Safiulla
- 4.A.Asmath Begum
- 5.A.Thamina
- 6.Rahimathulla
- 7.Karimulla
- 8.Babu

(Petitioners 1 to 8 rep.by their
General Power of Attorney
P.Dharani)

... Petitioners in both W.Ps

Vs

1. The Government of Tamil Nadu
Rep.by Secretary to Commercial
Taxes and Religious Endowment Department,
(and Tamil Nadu Estates abolition and
conversion into Royothari Act 1948)
Fort. St.George,
Chennai- 600 009.
2. The Additional Chief Secretary to
Government cum Director for Land
Survey & Land Settlement, Ezhilagam,
Chepauk,
Chennai - 600 005.
3. The District Collector of
Thiruvallur District, Thiruvallur.
4. The Tasildar,
O/o The Tasildar Office,
Ambattur,
Near TI Cycle Factory,
Chennai - 600 053.

5. The Morai Panchayat,
Ambattur Taluk,
Represented by its President,
Veerapuram. Near Aavadi,
Chennai - 600 055.

6. C.N.Elango

7. The Assistant Settlement Officer, (North)
O/o The Principal Secretary and
Commissioner of Land survey and
Settlements, Chempauk,
Chennai -5

[R7 is impleaded as per order dated 29.10.2010
in M.P.Nos.2 and 3 of 2010 in
W.M.P.Nos.336 and 337 of 2010 respectively)

....Respondents in Both W.P.s

PRAYER IN W.P.No.336 Of 2010 :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to his order dated 30-03-2009 in Na.Ka.I-1/1442/09 and quash it refusing to grant of patta to petitioners for 9.07 acres in Survey No.297/1,2, 300/1 and for 8.25 acres in Survey Nos.304/3 and 305/1 of Morai Village Ambattur Taluk, (holding the applications received after 20-08-87 are barred from consideration) and to direct the respondents 1 to 4 to grant patta to petitioners for their lands of 9.07 acres in survey No.297/1,2, 300/1, and for 8.25 acres in Survey No.304/3 and 305/1, (which lands of the petitioner's have been wrongly classified as grazing lands in 1976).

PRAYER IN W.P.No.337 Of 2010: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the records of the 2nd respondent relating to his order dated 13-02-2003 in Na.Ka.No.VI/682/3/2003 based on the earlier order dated 17-7-2000 Mu.Mu.794/2000 and quash the said orders.

For Petitioner : Mr.M.Kalyana Sundaram
(Sc) for R.Vasudevan

For Respondents : Mr.Akhil Akbar Ali
Government Advocate for R1 to R4 & R7
Mr.Thangasivan for R6.
No appearance for R5.

C O M M O N O R D E R

W.P.No.336 of 2010 has been filed praying for issuance of a writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to his order dated 30-03-2009 in Na.Ka.I--1/1442/09 and quash it refusing to grant of patta to petitioners for 9.07 acres in Survey No.297/1,2, 300/1 and for 8.25 acres in Survey Nos.304/3 and 305/1 of Morai Village Ambattur Taluk, (holding the applications received after 20-08-87 are barred from consideration) and to direct the respondents 1 to 4 to grant patta to petitioners for their lands of 9.07 acres in survey No.297/1,2, 300/1, and for 8.25 acres in Survey No.304/3 and 305/1, (which lands of the petitioner's have been wrongly classified as grazing lands in 1976).

2. W.P.No.337 of 2010 has been filed praying for issuance of a Writ of of Certiorari to call for the records of the 2nd respondent relating to his order dated 13-02-2003 in Na.Ka.No.VI/682/3/2003 based on the earlier order dated 17-7-2000 Mu.Mu.794/2000 and quash the said orders.

3. Affidavit in support of W.P.No.336 of 2010 was sworn to in October 2009 and it was filed on 09.11.2009. Affidavit in support of W.P.No.337 of 2010 was sworn to in December 2009 and it was filed on 08.12.2009. During the pendency of these writ petitions, the first petitioner passed away, which has been stated by the affidavit filed by the one of the petitioners. The learned counsel appearing for the 6th respondent raised preliminary objection that even though the Power Agent has filed the writ petitions, the 'power' granted to the Power Agent was cancelled by all the petitioners on 22.07.2009 and the writ petitions have been filed during November and December 2009, as stated supra and the writ petitions are not maintainable and the Power Agent has no locus-standi to file the above writ petitions.

4. Though the learned Senior Counsel appearing for the petitioners wanted to continue his arguments on the merits of the matter and submitted that all the persons who have executed the cancellation deed cancelling the Power granted to the Power Agent, has filed a reply affidavit to the counter affidavit filed by the sixth respondent, stating that the Power Agent is empowered to file an affidavit and they have authorised him to continue the litigation. Admittedly, on the date of filing of the writ petitions, the Power Agent has no locus-standi to file the writ petitions on behalf of the petitioners. The contention of the learned Senior Counsel appearing for the petitioners that any person who has got knowledge, de-hors whether he is a party or not, is empowered to bring to the attention of this Court by means of affidavit authorised by the petitioners may be correct,

but in this case, it is not so. The affidavits in the Writ Petition have been filed by the Power Agent on behalf of the principal and that too filed after the date of cancellation of power registered on 22.07.2009 and the writ petitions have been filed and the same had been presented before the Registry in November/December 2009 as stated supra.

5. Without going into the merits of the matter, as I find that there is prima-facie flaw in filing the writ petitions and that the contention of the sixth respondent that after the date of cancellation of the Power, the Power Agent has no locus-standi to file the Writ Petitions on behalf of the petitioners or representing the principal, the Writ Petitions are dismissed on the preliminary issue of maintainability of the Writ Petitions. However, this Court makes it is clear that as this Court has not dealt with the merits of the matter, it is open to the legal heirs of the deceased first petitioner and other petitioners to agitate their grievance, if any, in any case the issue survives as on date, by filing appropriate case before the appropriate forum. No costs.

Sd/-
Asst.Registrar (CS IV.)

/true copy/

Sub Asst. Registrar

mfa

To

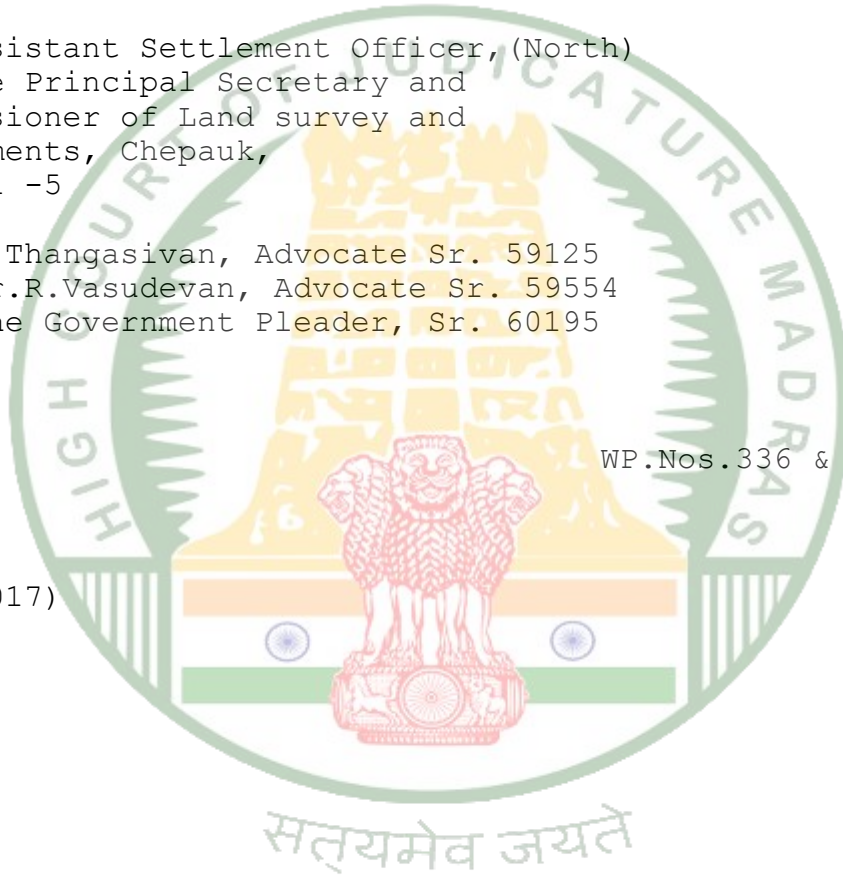
1. The Secretary to Commercial Taxes and Religious Endowment Department, (and Tamil Nadu Estates abolition and conversion into Royothari Act 1948) Fort. St.George, Chennai- 600 009.
2. The Additional Chief Secretary to Government cum Director for Land Survey & Land Settlement, Ezhilagam, Chepauk, Chennai - 600 005.
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Chennai -5

+1cc to S.Thangasivan, Advocate Sr. 59125
+1cc to Mr.R.Vasudevan, Advocate Sr. 59554
+1cc to the Government Pleader, Sr. 60195

WP.Nos.336 & 337 of 2010

AR (IV)
VR(30/8/2017)



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