



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2017

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THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) No.2729 of 2014

1.M.Abubakkar Sidhik
2.K.Suresh

: Petitioners

-vs-

1. The State rep. by its
Principal Secretary,
Department of Revenue,
Fort St. George,
Chennai-600 009.

2. The District Collector,
Pudukkottai District,
Pudukkottai.

3. The Thasildhar,
Kulathur Taluk,
Pudukkottai District,
Pudukkottai.
[Cause title amended vide court
order, dated 16.03.2017 in
MP (MD) No.1 of 2014.

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the respondents to issue patta for the land situated in Survey No.412/2 at Lakshmanapatty Village, Kulathur Taluk, Pudukkottai District, ad-measuring an extent of 25 Acres and 26 cents jointly in the name of the petitioners.

For Petitioner : Mrs.Hema Sampath
Senior Counsel
Mr.M.Saravanan

For Respondents : Mr.C.Selvaraj
Special Government Pleader

O R D E R

The prayer sought for in this writ petition is to direct the respondents to issue patta for the land situated in Survey No.412/2 at Lakshmanapatty Village, Kulathur Taluk, Pudukkottai District to an extent of 25 Acres and 26 cents, jointly in the name of the petitioners.

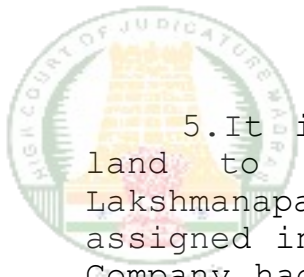


2.The facts in nutshell for disposal of the writ petition would run thus:-

The Government of Tamil Nadu, by G.O.Ms.No.2249, Revenue Department, dated 22.11.1977 assigned lands to an extent of 25.31 Acres in Survey Nos.412/2 and 412/3 of Lakshmanapatty Village, Thondamannur, Kulathur Taluk, Pudukottai District, in favour of a company M/s.Southern Hydro Carbon Company Limited, Udumalpet [in short "Company"], pursuant to their application for manufacture of Acetic Acid and Acetic Anhydride, on collection of the land value of Rs.53,595.41/-. The Company had given undertaking to pay the excess amount to the value of the land and accordingly, possession was also handed over to the Company on 07.01.1978. In pursuance of the assignment, patta was transferred in the name of the Company on 22.11.1978 and patta passbook was also issued in the name of the Company.

3.Thereafter, the said Company approached M/s.Industrial Finance Corporation of India, M/s.Industrial Development Bank of India and M/s.Industrial Credit and Investment Corporation of India for financial assistance. Based on the 'No Objection Certificate' issued by the Government of Tamil Nadu, the Company availed loan by mortgaging the properties. Due to default in payment of the loan amount, proceedings were initiated before the Board for Industrial and Financial Reconstruction (in short "BIFR") under the provisions of Sick Industrial and Companies Act. BIFR having found no possibility of rehabilitation or revival of the Company opined that the Company should be wound up. The opinion of BIFR was forwarded to the High Court for further action as per law and the same was taken up as C.P.No.157 of 1999. The Company Court, by order, dated 28.02.2001 issued direction to the Official Liquidator to take charge of all the assets and liabilities of the Company.

4.The Official Liquidator informed the same to all the Creditors about the proceedings and later, filed an application in C.A.No.1695 of 2005 in C.P.No.157 of 1999 seeking permission to sell all the movable and immovable properties of the Company. By order, dated 29.11.2005, the Company Court allowed the application and in the auction conducted on 28.06.2007, M/s.Classic Timber was declared as successful bidder and its bid amount of Rs.2,00,75,000/- was accepted and sale deed was also executed in favour of the successful bidder on 12.03.2008. Before the Company Court, the 2nd respondent filed applications in C.A.Nos.2444 and 2445 of 2006 seeking to set aside the sale contending that the assignment was made in favour of the Company was cancelled and resumed the land, but this court on 15.02.2013 dismissed the applications on the ground that the sale is valid and the petitioners are *bona fide* purchasers of the land. Based on the above facts, the petitioners applied for mutation of records in their favour and for issuance of patta. Since, no favourable order was passed, the present writ petition.



5.It is stated in the counter of the 3rd respondent that the land to an extent of 25.26 Acres in Survey No.414/2 of Lakshmanapatty Village, Kulathur Taluk, Pudukottai District was assigned in favour of the Company on certain conditions, but as the Company had become defunct in the year 1996, the District Collector ordered to resume the land and the land was classified as 'Government Poramboke' and prayed for dismissal of the writ petition.

6.I have heard Mrs.Hema Sampath, learned Senior counsel for the petitioners and Mr.C.Selvaraj, learned Special Government Pleader for the respondents and perused the materials available on record.

7.It is not in dispute that the Government assigned lands in favour of M/s.Southern Hydro Carbon Company Limited in the year 1977. It is also equally not in dispute that the financial institutions relying upon the 'No Objection Certificate' issued by the Government of Tamil Nadu sanctioned loan. However, due to the default in repayment of the loan amount, proceedings were initiated before BIFR and the property was sold in public auction on 12.03.2008. Validity of the sale has been questioned by the 2nd respondent and this court has held that the sale made in favour of the petitioners was valid and they are the *bona fide* purchasers, the order of the Company Court, dated 15.02.2013 has become final.

8.It is seen that the respondents resist the request of the petitioners on the same ground that the assignment was cancelled and an order came to be passed to resume the land. In view of the specific findings of this court in the earlier proceedings, the respondents are precluded from raising the same issue again in this case. It is to be noted that once the auction sale made in favour of the petitioners was held to be valid, they are entitled to seek issuance of patta in their favour.

9.For the reasons above mentioned, this court is of the considered view that the petitioners are entitled to succeed in the writ petition.

10.In the result, this writ petition is **allowed** and the 3rd respondent is directed to issue patta for the land in Survey No.412/2 at Lakshmanapatti Village, Kulathur Taluk, Pudukkottai District, to an extent of 25 Acres and 26 cents, jointly in the name of the petitioners, within a period of four weeks from the date of receipt of the order copy. No costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/



To

1. The Principal Secretary to Government of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai-600 009.

2. The District Collector,
Pudukkottai District,
Pudukkottai.

3. The Thasildhar,
Kulathur Taluk,
Pudukkottai District,
Pudukkottai.

+ 1 CC TO Mr.M.SARAVANAN, ADVOCATE IN SR No. 81022

ER

TE/SKN/SAR-I : 26/10/2017 : 4P/5C

W.P. (MD) No. 2729 of 2014
22.09.2017