



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.04.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.6732 of 2017

1.M.Chinna Devar
2.M.Nagadevar
3.M.Muthudevar
4.M.Periyakaruppan
5.M.Sakkaraiyan

: Petitioners

Vs.

1.The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Theni District,
Theni.

2.R.Ganesh Babu
3.M.P.Palanikumar
4.M.Ratha Krishnan
5.V.Ayyappasamy
6.A.G.Francis

: Respondents

Prayer : This Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus directing the respondent No.1 to cancel the pattas granted in the names of respondents 2 to 6 by Theni Thasildar in Patta No.826 the land in survey No.195/3 & 196/2 is situated at allinagaram village, Theni District.

For Petitioner	: Mr.T.Ashwin Rajasimhan
For Respondents	: Mr.A.Muthukaruppan Additional Public Prosecutor

O R D E R

This writ petition has been filed by the petitioner seeking for the issuance of a writ of Mandamus directing the second respondent to cancel the pattas granted in the names of respondents 2 to 6 by Theni Thasildar in Patta No.826 in respect of the land in Survey Nos.195/3 & 196/2 situated at Allinagaram village, Theni District.

<https://hosevicesagents.gov.in/hosevices5>

2.According to the petitioners, their father has been in enjoyment of the property in Survey Nos.195/3 & 196/2 situated at



Allinagaram village, Theni District. It is stated that the petitioners' father died on 22.03.1953. According to the petitioners, as they are being the legal heirs, they have a right to enjoy the property after the death of their father. However, according to the petitioners, the respondents 2 to 6 had obtained patta from the Tashildar, Theni, way back on 29.12.1956. As against the grant of patta, the petitioners have filed the present writ petition seeking a direction for cancellation of patta by directing the first respondent herein.

3. From the averments, it is seen that there was no proper and valid explanation as to what happened during the period from 29.12.1956 till 2016 and 2017, where the representations said to have been submitted by the petitioners against the grant of patta to the private respondents way back in the year 1956. There are also no averments contained in support of the writ petition as to the circumstances under which the patta was granted in favour of the private respondents overlooking the claim of the petitioners. The affidavit is incomplete and bereft of any details and with available averments, this writ petition cannot be maintained.

4. It appears that the petitioners also filed the writ petition in W.P(MD)No.2208 of 2017, wherein, this Court by an order dated 09.02.2017 has dismissed the said writ petition as being premature. The operative portion of the order passed by this Court in the said writ petition is extracted hereunder:-

"5. In the result, this writ petition is dismissed as pre-matured. If the appeal is not disposed of by the first respondent, within a reasonable time, it is for the petitioners to seek remedy by filing a fresh petition at appropriate time."

5. The learned counsel appearing for the petitioners would submit that since the appeal filed before the first respondent has still not been disposed of, the present writ petition has been filed.

6. I am unable to persuade myself as to how such a writ petition is maintainable after a lapse of very many decades and what was the action the petitioners have taken for approaching this Court invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

7. As stated above, no explanation has been offered in the affidavit for approaching the Court after enormous delay of more than 5 decades and also there was no explanation as to the basis of the claim of the petitioners viz-a-viz the respondents 2 to 6. The petitioners cannot be allowed to casually approach this Court for invoking its extraordinary jurisdiction. Such approach by the petitioners <https://hccs.cerpts.gov.in/e-services/> be deprecated to say the least. The remedy available under Article 226 of the Constitution of India cannot be availed by such persons, even assuming that they have any right in



support of the claim and approach the court without any explanation after a period of more than five decades.

8. In such circumstances, this Writ Petition is completely devoid of merits and substance and the same is dismissed not only on laches but also on merits, as the affidavit filed in support of the writ petition does not contain any details in support of the claim of the petitioners. No costs.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Theni District,
Theni.

+One cc to Mr.T.Lajapathi Roy, Advocate, SR.No.52098

+One cc to The Special Government Pleader, SR.No.52090

skn

RL/4C/3P/MR/8.5.2017

W.P. (MD) No.6732 of 2017

13.04.2017