

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2018

ORDERS RESERVED ON 08.03.2018

ORDERS DELIVERED ON 14.03.2018

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.Nos.705, 1026, 1506 to 1509, 87 and 15670 of 2017 (8 W.Ps.)
and

W.M.P Nos.729, 1002, 1409 to 1412, 16961 of 2017

1.A.Glory
2.S.Flory
3.S.Gnanam
4.S.Joy
5.M.Mary
6.G.Elezhath
7.M.Edwin
8.Louin Navamani
9.Coleb
10.M.Vedasaronmani
11.M.Benjman

...Petitioners
in W.P.705/17

P.Nagalingam

...Petitioner
in W.P.1026/17

1.A.Vasanth
2.Rajendran
3.A.Munusamy
4.G.Sadaiyammal

..Petitioners
in W.Ps.1506 to 1509/17

1.D.Immanvel
2.E.Lilly Mary
3.D.George

...Petitioners
in W.P.No.1507/17

1.M.K.Dhanachalian
2.Vennila

...Petitioners
in W.P.1508/17

- 1.B.Arumugam
- 2.B.Rajendran
- 3.N.Ammu
- 4.M.Vennila
- 5.S.Deepa
- 6.P.Murugammal

...Petitioners
in W.P.1509/17

Meiyur Koodapakkam Ex-Servicemen
Land Colonization Co-operative Society,
No.EX.S.15,
Koodapakkam,
Pudhuchathiram Post,
Poonamallee Taluk,
Thiruvallur District,
Rep. by its President.

...Petitioner
in W.P.87/17

V.Gnanarathinam

...Petitioner
in W.P.15670/17

vs

- 1.The Government of Tamil Nadu,
Rep. by Secretary, Revenue Department,
Fort St.George,
Chennai 600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.
- 3.The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.

- 4.The President,
(amended as per order dated 21.11.2017 by
KRCBJ in WMP Nos.31638 & 31639/2017 in W.P.No.705/17)
Maiyur Gudapakkam,
Co-operative Land colonization,
Society for Servicement Ex, S.15,
(Established in 1946),
Pudhuchalathiram Post, Gudapakkam,
Chennai 600 124.

..Respondents
in W.Ps.705,1026,1506 to 1509/17

- 1.The State of Tamil Nadu,
Rep. by Secretary, Revenue Department,
Fort St.George,
Chennai 600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.
- 3.Additional P.A. to the District Collector
cum Special Deputy Collector L&G,
Special Project Implementation,
Thiruvallur,
Thiruvallur District.
- 4.The Tahsildar,
Poonamallee,
Thiruvallur District.

...Respondents
in W.P.87/2017

- 1.The Government of Tamil Nadu,
Rep. by Secretary, Revenue Department,
Fort St.George,
Chennai 600 009.
- 2.The District Collector,
Thiruvallur District,
Thiruvallur.
- 3.The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.
- 4.The Special Officer, सत्यमेव जयते
Maiyur Gudapakkam,
Co-operative Land Colonization,
Society for Servicement Ex,S.15,
(Established in 1946),
Pudhuchathiram Post, Gudapakkam,
Chennai 600 124.

... Respondents
in W.P.15670/17

Prayer in W.Ps.705, 1026, 1506 to 1509 and 15670 of 2017:Writ petitions filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the respondents to issue a patta to the petitioners in respect of 6 acres of

agricultural land which are in possession and enjoyment of the petitioner comprised in Survey Nos.341/242, 341/242, 341/242, 97, 341/242, 341/242 and 97 respectively Maiyur Gudapakkam Village as per the directions issued under G.O.Ms.No.277, Revenue Department dated 04.06.2004 and as per the decisions and directions issued by the first respondent under the order dated 25.05.2015.

Prayer in W.P.87/2017:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the respondents to grant patta to the families of the ex-servicemen in accordance with G.O.Rt.No.277 Revenue Department dated 04.06.2004, restore 48 acres of land comprised in Survey No.341 of 24, Kudapakkam village shown as serial Nos.3, 4 and 5 in the plan prepared by the fourth respondent dated 22.08.2014 to the petitioner society and its members.

For petitioners : Mr.T.Thiageswaran
for Waraon and Sai Rams
in W.Ps. 705, 1026, 1506 to 1509 and
15670 of 2017.
Mr.V.Selvaraj in W.P.No.87/2017

For Respondents : Mr.V.S.Sethuraman
Additional Advocate General I,
Assisted by
Mr.R.Govindasamy
Special Government Pleader
for R1 to R3 in all W.Ps
and R4 in W.P.87/17
Mr.D.Jayasingh for R4
in W.Ps.705, 1026, 1506 to 1509 of 2017

No Appearance for R4 in W.P.15670/17

सत्यमेव जयते
C O M M O N O R D E R

All these writ petitions are filed seeking for a mandamus directing the respondents to issue patta in respect of the subject matter land in accordance with G.O.Ms.No.277, Revenue Department dated 04.06.2004. While W.P.No.87 of 2017 is filed by a Society, all other writ petitions are filed by the individuals, however for seeking the same relief.

2.All these petitioners are claiming to be either Ex-servicemen or the legal heirs of such Ex-servicemen. The case of the petitioners is as follows:

In pursuant to the World War II, the Government decided to allot land to Ex-servicemen, who participated in such war. Accordingly, G.O.Ms.No.966 was issued by the Public (Resettlement Department) dated 22.04.1946, allotting land to the Exservicemen at Goodapakkam Village. Another G.O.Ms.No.277 was issued by the Revenue Department dated 04.06.2004, directing the District Collector to issue patta to the Exservicemen, who are in possession of their respective land for more than 30 years in pursuant to the allotment made as per G.O.Ms.No.966. On 23.11.2004, the District Collector allotted house sites for 53 Ex-servicemen, who are continuously in possession for more than 30 years. However, the respondents failed to issue patta in respect of the agricultural land, which are allotted to the respective parties who are in possession and enjoyment of the same for more than 30 years. A representation was given to the respondents on 16.07.2012 for issuing patta. The Secretary, Revenue Department, issued an order on 25.05.2015, directing the District Collector to take proper steps to issue patta to Ex-servicemen, who are in possession of the land for more than 30 years. However till this date, patta was not given. Therefore, these writ petitions are filed with the relief as stated supra.

3. The respondents filed counter affidavit in each cases, however, with common contentions. The stand taken by the respondents in their counter affidavits is as follows:

As per G.O.Ms.No.681, Revenue Department dated 20.03.1941, G.O.Ms.No.966, Public (Rehabilitation) Department dated 22.04.1946, G.O.Ms.No.1401, Public (Rehabilitation) Department dated 22.05.1947 and the Government Gazette dated 06.07.1948, the Government have allotted an extent of 333.12 acres in Gudapakkam village and 346.92 acres in Meyyur for rehabilitation of those who participated in the second world war. It was allotted to the Ex-servicemen land Co-opertative Society. The Government in its order in G.O.(Rt) No.277, Revenue Department dated 14.05.2004, ordered that out of 134.81.5 hectares of land which was classified as Kaadu poramboke in S.No.341 and 242 of Gudapakkam village, Poonamallee Taluk, Tiruvallur District and allocated to Ex-servicemen, an extent of 11.28.0 hectares be classified as Natham and an extent of 123.83.5 hectares be classified as Dry Assessed Waste and upon reclassification, the District Collector, Tiruvallur to grant free house site and land pattas to the Ex-servicemen and their legal heirs who are in possession of the land for a minimum period of 30 years. For those who are residing and doing cultivation below 30 years also the Government, have directed to send proposals to the Government for the grant of house sites and assignment of land for cultivation purpose as per rules. In pursuance of the Government order house site pattas were granted to the families of 53 Ex-servicemen, on 23.11.2004, who are residing for more than 30 years. As regards those who are residing less than 30

years, proposals were sent to Government for the grant of House site pattas to 33 families of Ex-servicemen and the Government have also directed to grant house site pattas to these 33 families on 03.04.2008 and accordingly house site pattas were granted to these 33 families. In the meanwhile, about 2400 families, who encroached the Porur PWD Tank in Ambattur Taluk were evicted and were given an alternative site at Survey Nos.341 and 341/1 of Gudapakkam Village, Poonamallee Taluk and an extent of about 48 acres of lands, which were free from encroachments, were identified by the District Administration for this purpose. Writ petitions were filed challenging such allotment of alternative site in W.P.No.48175 of 2006, etc., In the said writ petitions, the District Collector, Tiruvallur, filed a counter stating that so far as the land earmarked for cultivation purpose to the Ex-servicemen in Gudapakkam village is concerned, none of the Ex-servicemen is qualified for getting assignment of land, out of 305 acres of land whereas only a part of land was cultivated and that too, not continuously for 30 years. Consequently, the said writ petition was dismissed. Pursuant to the dismissal of the writ petition and the direction issue therein, settlement work was done in the land at Survey No.341 of Gudapakkam village in an extent of 48 acres, which was barren and uncultivated to allot the same to the affected people, who have been evicted from porur tank. Again, writ petitions were filed in W.P.No.11238 of 2011, etc., to evict the encroachers from the land at Survey No.341 of Gudapakkam village and to hand over the land to those writ petitioners, who were evicted on 29.10.2006 and also to assign 5 acres of land to each of the petitioners in the land at S.No.97 of Meiyur village and one acre of land to each petitioner in S.No.341 of Gudapakkam village. By an order dated 25.04.2012, passed in those writ petitions, this Court directed the petitioner society to approach the first respondent viz., the Secretary to Government by filing a suitable representation, who shall look into the matter and take appropriate decision. Consequently, writ petitioners have filed their representation on 16.07.2012 for restoration of the land measuring 48 acres, which was allotted to porur tank encroachers. The Government examined the request and informed the petitioners on 25.05.2015 that reallotment of 48 acres is not possible since rehabilitation was done as per the High Court direction. It was also informed therein that action will be taken to assign the lands to the Ex-servicemen after proper verification on the eligibility factor. The District Revenue Officer has also instructed the Revenue Divisional Officer, Tiruvallur to send land assignment proposal for those who have kept the lands under their enjoyment for more than 30 years and those who have kept the lands under the enjoyment for less than 30 years. In such circumstances, these writ petitions are filed before this Court. The writ petitioners were already issued with free house site pattas.

Regarding the land proposal, sufficient proof was called for from the Tahsildar and it is under consideration. It is a vast extent and the entire field is to be measured with regard to the land owners and to decide the veracity of their claim. The Tahsildar, Poonamallee, is suitably instructed to quicken the process and complete the exercise.

4. Heard the learned counsel for the petitioners, the learned Additional Advocate General for the official respondents and the learned counsel for the Society.

5. It is seen that these petitioners are seeking for grant of patta in respect of the agricultural lands measuring 6 acres, which according to them, in their possession and enjoyment for more than 30 years, which include the house site patta granted for 15 cents each. All these petitioners claim under the Ex-servicemen category. There is no dispute to the fact that the Government has already taken a decision to allot the land to these Ex-servicemen, as admitted in their counter affidavit. It is seen that out of the total extent of land allotted for such purpose at Survey Nos. 341 and 242 of Gudapakkam Village, 48 acres of lands, which were free from encroachments, were identified and allotted to the persons, who were evicted from the Porur PWD Tank, in pursuant to the direction issued by this Court in the earlier writ petitions. It is further seen that a subsequent attempt made by these persons for evicting the encroachers from S.No. 341 of Gudapakkam village and for assigning 5 acres of land each to the petitioners was also considered by the Division Bench of this Court and an order was passed in W.P.No. 11238 of 2011 on 25.04.2012, directing the petitioners to approach the first respondent with their representation. The said order reads as follows:

"2. The case of the petitioner in the first writ petition is that the Government of Tamil Nadu by G.O.Ms.No.966, dated 22.4.1946 promised to provide house sites and cultivable lands to Ex-servicemen, who participated in the Second World War. Pursuant to the said Government Order, several Co-operative Societies were formed to streamline the allotment of house sites and cultivable lands to the Ex-servicemen. The fourth respondent is one of the societies, which came into existence in 1946. It is stated that the Government passed various orders regarding the scheme for providing house sites and cultivable lands to Ex-servicemen and under the scheme the Ex-servicemen or their descendants should join as a member of the society formed for the said purpose and house sites and cultivable lands would be allotted to them only through the Co-operative Society concerned.

3. The further case of the petitioner is that

680.04 acres of land has been allotted by the Government to the fourth respondent society for being distributed to the Ex-servicemen for cultivation. Each member was allotted six acres of land for cultivation and a house site measuring about 5 1/2 cents in S.No.341 of Koodapakkam Village. However, the second respondent - District Collector is alleged to have forcefully taken control of 48 acres of land in S.No.341 of Koodapakkam Village for providing house sites for those who were evicted from Porur lake area by the District Revenue Administration. It is stated that various writ petitions being W.P.Nos.10160 to 10166 of 2007 and 23802 to 23807 of 2007 have been filed by various allottees which are tagged along with the present writ petition. It is alleged that of late, men are attempting to encroach the land and the house sites allotted to the members of the petitioner society. In paragraph 14, it is stated that the members of the petitioner-society are unable to initiate civil and criminal action since pattas for the lands are yet to be given to them.

4. From the aforesaid facts, three things are clear. Firstly, the Government has proposed to settle the land to the members of the Society comprising of Ex-servicemen under a scheme. Secondly, no pattas in respect of the lands sought to be allotted to the members of the society comprising of Ex-servicemen have been granted to them and thirdly, various writ petitions filed by the members of the petitioner society, are still pending. The petitioner also has stated that since the members of the petitioner society have not acquired title over the land for want of patta to be granted by the Government, they are not in a position even to file civil suits in the Civil Court. It has been categorically stated that this writ petition has been filed only because some persons are attempting to encroach the lands and the house sites allotted to the members of the petitioner society. Those persons who are alleged to have been attempting to encroach such lands are not made parties to this writ petition.

5. In the aforesaid facts and circumstances of the case, the proper course for the petitioner-society would be to approach the first respondent - Secretary to Government, Revenue Department by filing a suitable representation, who shall look into the matter and take appropriate decision in accordance with law. In the light of the order passed in the first writ petition,

all the other writ petitions are disposed of with the direction as stated above. Consequently, the connected miscellaneous petitions are closed. However, there will be no order as to costs."

Thus, it is seen that as per the above order passed by the Division Bench, the representations were made by the parties to the Government. It is further seen that after considering the representation, the Government passed an order on 25.05.2015, informing that reallocation of 48 acres at the above said survey number is not possible and that action will be taken to assign the lands to the Ex-servicemen after proper verification on the eligibility factor. Therefore, it is evident that the Government has not totally rejected the claim of the petitioners and on the other hand, it has instructed the Revenue Officials to file a report with assignment proposal as to who are the persons in possession and enjoyment of the land for more than 30 years and who are the persons in possession and enjoyment of the land for less than 30 years.

6. It is stated by the respondents in the counter affidavit that necessary proposals with sufficient proof have been called for from the Tahsildar, Poonamallee and it is under consideration. When such being the stand taken by the Government, the petitioners have to wait for the Government to act further after getting the report and proposals from the concerned Revenue officials. In so far as the duration of the possession and the extent of the land in occupation of these petitioners are concerned, disputed facts are placed before this Court. When the petitioners claim that they are in possession of six acres of land including 15 cents of the house sites for more than 30 years, the respondents denied such fact in the counter affidavit by stating that it is not so and the extent of possession is lesser than what is claimed. All these factual aspects cannot be gone into by this Court at this stage, as the report and proposal sought from the Revenue officials are still awaited. Therefore, all सत्यमेव जयते

these writ petitions are disposed of with the following directions:

a) The concerned Revenue official viz., the third respondent herein shall find out the veracity of the claim of the petitioners and send a report cum proposal indicating as to who are the persons in possession and enjoyment of the subject matter agricultural land for more than 30 years and what is the actual extent of land which is in their possession and enjoyment as on date. Such proposal shall be sent by the third respondent to the Government within a period of six months from the date of receipt of a copy of this order, since vast extent of the land has to be measured and demarcated with reference to the

occupation of each of the claimants.

b) On receipt of such proposals from the third respondent, necessary and appropriate action shall be taken by the respondents 1 and 2 to assign and issue patta in respect of the actual extent of land, which is in possession and enjoyment of those persons, who are to be benefited as Ex-servicemen in view of the above said Government Orders. Such exercise shall be done by the respondents 1 and 2 within a period of four months from the date of receipt of such proposal from the third respondent.

c) While measuring, demarcating and allotting the land as stated supra, the assistance of the Meiyur Gudapakkam Exservicemen Land Colonization Co-operative Society shall also be taken by the official respondents only for the purpose of identifying the persons and their possession of their land.

With the above directions, the writ petitions are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vri

To

1.The Government of Tamil Nadu,
Rep. by Secretary, Revenue Department,
Fort St.George,
Chennai 600 009.

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Tahsildar,
Poonamallee Taluk,
Thiruvallur District.

WEB COPY

4.The President,
Maiyur Gudapakkam,
Co-operative Land colonization,
Society for Servicement Ex, S.15,
(Established in 1946),
Pudhuchalathiram Post, Gudapakkam,
Chennai 600 124.

5.The Tahsildar,
Poonamallee,
Thiruvallur District

6.The Addittional PA to
The District Collector-cum- Special Deputy Collector L & G,
Special Project Implementation,
Thiruvallur.

+1cc to Mr.D.Jaya Singh, Advocate, S.R.No.19060

+7cc to M/s.Waroon & Sairams, Advocate, S.R.No.18978 (15/03/18)

W.P.Nos.705, 1026, 1506 to 1509,
87 and 15670 of 2017

RA (CO)
RRK (14/03/2018)



WEB COPY