

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.220 of 2018

and

CMP.No.1731 of 2018

1. The Principal Secretary,
Adi Dravidar and Tribal Welfare Department,
Government of Tamilnadu, Fort St. George,
Secretariat, Chennai 600 009.
2. The Director,
Adi Dravidar and Tribal Welfare Department,
Chepauk, Chennai 600 005.
3. The District Collector,
Collectorate,
Tiruvallur District 602 001.
4. The Commissioner of Land
Administration, Ezhilagam,
Kamarajar Salai, Chepauk,
Chennai - 600 005.
5. The District Adi Dravidar and Tribal
Welfare Officer,
Collectorate,
Tiruvallur 602 001.

6. The Special Tahsildar,
Department of Adi Dravidar and
Tribal Welfare, R.D.O. Office,
Ground Floor, Tiruttani.

.. Appellants

..Vs..

1. Dr.K.V.S.Kumar
2. The President,
Jagirmangalam Village Panchayat,
Thiruvelangadu Union,
Thiruvallur District

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, against
the order dated 01.06.2017 made in W.P.No.38912 of 2016.

For Appellants : Mr.V.Anandhamurthy
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The learned Single Judge by order dated 01 June 2017 directed the appellants to refer the issue of payment of compensation to the first respondent to the State Level Private Negotiation Committee and pay compensation recognising him as the lawful owner of the land in question.

The order is under challenge at the instance of the respondents in W.P.No.38912 of 2016, primarily on the ground that similar Writ Petition filed by the first respondent herein earlier in W.P.No.21448 of 2010 claiming compensation was dismissed by the learned single Judge by order dated 17 June 2011.

2. The learned Additional Government Pleader contended that the first respondent claiming himself to be the rightful owner of the land in Survey No.39/1G, Raja Padmapuram Village, Tiruttani Taluk, Tiruvallur District filed a Writ Petition in W.P.No.21448 of 2010 for compensation. The learned Single Judge arrived at a factual finding against the first respondent and dismissed the Writ Petition. The first respondent without disclosing the earlier order in W.P.No.21448 of 2010 again filed a Writ Petition in W.P.No.38912 of 2016. The learned Additional Government Pleader submitted that the appellants also failed to bring the notice of the Court with regard to the order passed in the Writ Petition in W.P.No.22448 of 2010. It was further contended that the land in question is a Government land. The first respondent has therefore no right to claim compensation.

3. Even though the name of the first respondent is printed in the cause list, none appears on his behalf.

4. The first respondent filed a Writ Petition in W.P.No.21448 of 2010 for issuance of Writ of mandamus directing the appellants to pay the market value for 2.52 acres of land in S.No.39/1G, Raja Padmapuram Village, Tiruttani Taluk, Thiruvallur District.

5. Before the Writ Court, the first respondent contended that the land was in possession and enjoyment of his mother and by way of a Settlement Deed dated 28 July 2006, the land was given to him. The respondents in the said Writ Petition filed a counter affidavit disputing the claim made by the first respondent herein. The revenue authorities contended that it is still a poromboke land and it was wrongly classified by an incompetent authority as a patta land.

6. The learned single Judge considered the entire factual matrix and by opining that the remedy is only to move the Civil Court, dismissed the Writ Petition. The order has become final.

7. The first respondent, thereafter appears to have taken up the matter with the Adi Dravidar and Tribal Welfare Officer. The request was once again to acquire 3.2 acres of land claiming that it was taken possession in an illegal manner. The land has already been allotted to the members of Irular

Community. The first respondent therefore claimed the compensation. His case was forwarded to the Government. The Government rejected the proposal by order dated 23 August 2018. The said order was challenged before the Writ court in W.P.No.38912 of 2016.

8. The attention of the learned Judge was not drawn to the earlier order dated 17 June 2011 in W.P.No. 21448 of 2010 either by the appellants or by the first respondent. The learned single Judge, directed the appellants to place the matter before the State Level Private Negotiation Committee for fixing the value.

9. The core question is as to whether the learned single Judge was correct in recognising the right claimed by the first respondent.

10. The first respondent claimed that the patta in respect of 3.2 acres of land in Survey No.31/1G and 39/2H in Raja Padmapuram Village, Tiruttani Taluk, Tiruvallur District was transferred to his name. In the previous round of litigation, the revenue authorities contended that the Deputy Tahsildhar was not competent to change the classification "Poromboke" to "patta" land. It was only under the said circumstances, the learned Single Judge granted liberty to the first respondent to work out his remedy before

the Civil Court. The first respondent without taking efforts to declare the right, title and interest with respect to the land in question took up the matter once again to the Adi Dravidar and Tribal Welfare Department for payment of compensation.

11. The right claimed by the first respondent is in dispute. The land was originally classified as “Poromboke”. It is for the first respondent to file a civil suit for declaration. It is not possible for the Writ Court to decide the question raised by the first respondent in view of the fact that prior to the re-classification, the land was shown as “Poromboke land”. Even according to the first respondent, the land was taken over by the Government. The land was allotted to the members of Irular Community by the Government and the beneficiaries are in possession. There was no proceeding taken by the Government for acquisition. The Government proceeded as if it is a “poromboke” land. Therefore, it is for the first respondent to establish his right by filing a civil suit before the appropriate Court.

12. The Order dated 23 August 2016 was on the basis of the recommendation given by the District Adi Dravidar and Tribal Officer. The said authority has no right to recommend the case to the Government for compensation.

13. In view of the order dated 17 June 2011 in W.P.No.21448 of 2010, negating the claim made by the first respondent, the only course available to him is to approach the Civil Court. We are therefore of the view that the direction to refer the matter to the State Level Private Negotiation Committee deserves to be set aside.

14. The order dated 01 June 2017 is set aside. The Writ Petition in W.P.No.38912 of 2016 is dismissed. However, we make it clear that this order would not stand in the way of the first respondent from filing a civil suit for declaration of his right and other reliefs.

15. The intra court appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

(K.K.SASIDHARAN, J.) (P.VELMURUGAN, J.)

26.03.2018

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K.K.SASIDHARAN, J.
and
P.VELMURUGAN, J.

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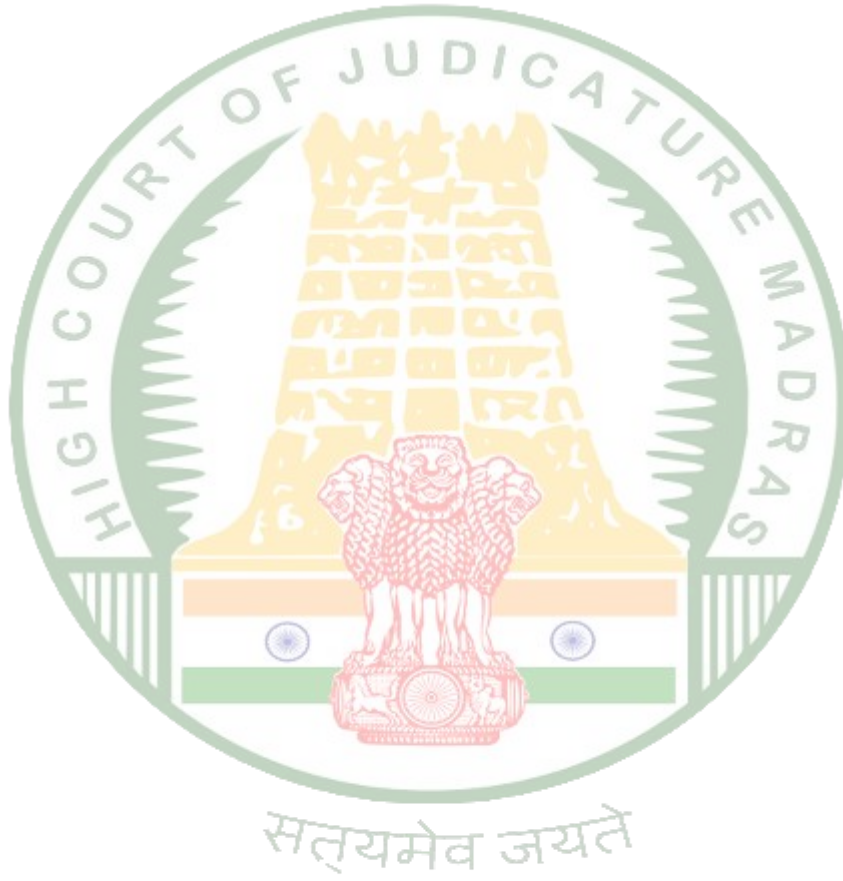
The President,
Jagirmangalam Village Panchayat,
Thiruvelangadu Union,
Thiruvallur District



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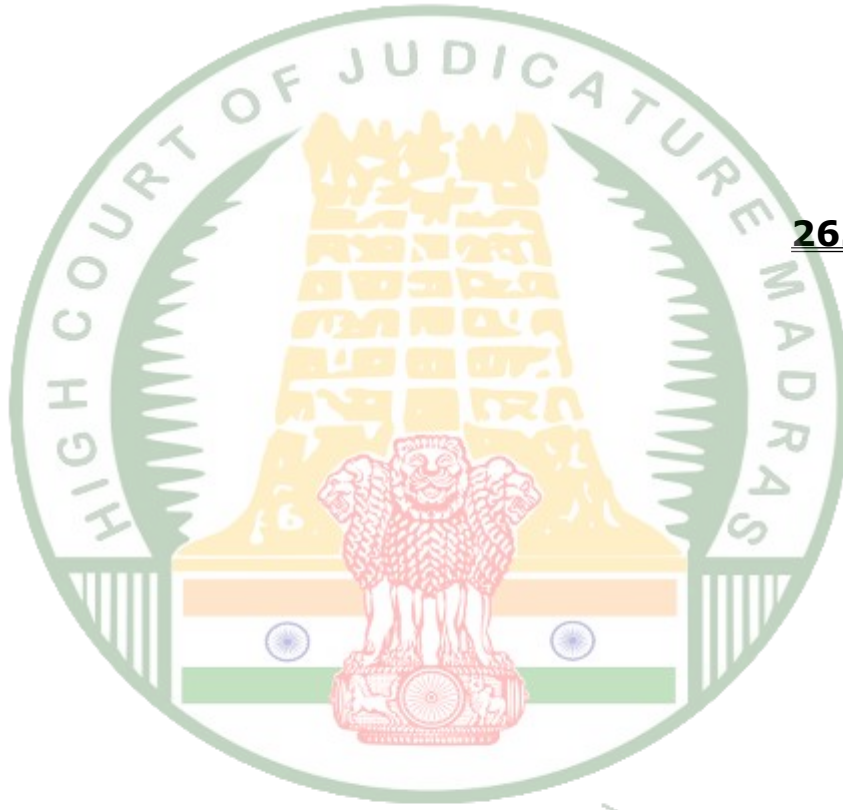
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