

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.4.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal Nos.712 & 713 of 2018

1.R.Saroja
2.N.Eswaramoorthy
3.N.Nallammal
4.R.Kandasamy
5.P.Dhanalakshmi
6.R.Nalliappan
7.R.Kandasami
8.R.Nalliappan
9.K.Saraswathi
10.K.Yogaraj
11.C.Pavayee
12.C.Shanmugasundaram
13.K.Sumathi
14.C.Periyasami @ Thangavelu
15.A.Seerangan

Appellants in
.. WA No.712/18

1.M.Periyaswami
2.S.Manivannan
3.M.Revathi

Appellants in
.. WA No.713/18

Vs.

1.The State of Tamil Nadu
rep. by its Principal Secretary to Government
Revenue Department (L.A1-2)
Fort St. George
Chennai 600 009.

2.The Principal Secretary cum
The Commissioner of Land Administration
Chepauk, Chennai 600 005.

3.The Collector
Namakkal District
Namakkal.

4.The District Revenue Officer
Namakkal District
Namakkal.

5.The Tahsildar
Thiruchengodu Taluk
Namakkal District.

6.R.Sathiyamurthy

7.R.Vijayakumar

Respondents 1-7 in
.. both WAs.

8.K.Sumathi
9.K.Thilagamani
10.K.Anil Kumar
11.R.Palaniswamy
12.P.Sarasu
13.S.Paramasivam
14.K.Duraiswamy
15.R.Lakshmi
16.S.Sivathanam
17.A.Mani
18.M.Muthulakshmi
19.A.Chinnammal
20.T.Periyasami
21.M.Balakrishnan
22.M.Muthu
23.P.Gopal

Respondents 8-23
.. in WA No.712/18

8.R.Nallammal
9.R.Rathinam
10.R.Lakshmi
11.R.Vasantha
12.R.Poonkodi
13.R.Anandakumar
14.A.Marimuthu
15.V.Kalimuthu
16.A.Vasantha
17.K.Loganathan
18.S.Muthulingam
19.A.Varadaraj
20.M.Thangaraj
21.P.Muniappan
22.K.Murthy
23.K.Arran

Respondents 8-23
.. in WA No.713/18

Appeals under Clause 15 of Letters Patent directed against
the common order dated 18.01.2018 made in W.P.Nos.27043 of 2009
& 2857 of 2010.

WA.NO.712 of 2018 against WP.No.27043/2009 and
WA.NO.713 of 2018 against WP.NO.2757 of 2010

Common Prayer:

Writ Petitions filed Under Article 226 of the Constitution of India, praying for issuance of Certiorarified Mandamus, to call for all the records of the 1st respondent impugned G.O.Ms. No. 338 Revenue (L-A1-2) Department dt 10.9.2009 and quash the same and to direct the respondents 1 to 5 to consider the claim of the petitioners for grant of patta/Assignment in their favour in respect of the lands in the occupation of the petitioners situated at A. Eraiyamangalam in S.No. 136/2 sub divided as S.No.408 to 432 situated in S.Eraiyamangalam and lands situated in A. Eraiyamangalam in s. No. 153/1 sub divided as S. No.433 to 447 situated in S.Eraiyamangalam village, Thiruchengodu taluk, Namakkal district.

For Appellants : Mr.K.A.Ravindran
For Respondents : Mr.P.S.Sivashanmuga Sundaram
1 to 5 in both WAs. : Spl. Govt. Pleader
For Respondent-7
in both WAs. : Mr.K.Doraisami, S.C. For
M/s.Muthumani Doraisami

J U D G M E N T

(Made by Huluvadi G.Ramesh, J)

The writ appeals have been directed against the common order of the learned single Judge dated 18.01.2018 made in W.P.Nos.27043 of 2009 & 2857 of 2010.

2. Heard Mr.K.A.Ravindran, learned counsel for the appellants, Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing for the respondents 1 to 5 and Mr.K.Doraisami, learned senior counsel appearing for the respondents 6 and 7.

3. It appears that the appellants have occupied the lands in question in the year 1960 and were in enjoyment of the said

land. The father of respondents 6 and 7 was the owner of the lands in question. The lands were taken over by the Government, after the abolition of Zamindari and introduction of ryotwari in the year 1951 and were classified as Poramboke. The Board of Revenue rejected the request of the father of respondents 6 and 7 for the grant of patta under the Abolition Act 16 of 1948 and directed them to apply for patta outside the scope of the Act. Thereafter, the application for the issue of patta was made and the same was rejected on the ground that respondents 6 and 7 possessed lands more than the limits under the Tamil Nadu Reforms (Fixation of Ceiling on Land) Act, 1961.

4. In the meanwhile, the father of respondents 6 and 7 passed away and therefore, respondents 6 and 7 filed a suit in O.S.No.397 of 1977 before the District Munsif Court, Sankari at Salem for declaration and permanent injunction against the Government authorities and the said suit was decreed on 25.7.1978 holding that the respondents 6 and 7 are the absolute owners of the properties in question and that the suo motu change of classification of poramboke lands without invoking the provisions under the Act is not proper. Consequently, the Government granted patta to respondents 6 and 7 by G.O.Ms.No.338 Rev. (L.A.) Department dated 10.9.2009. Aggrieved by the same, the appellants filed the writ petitions.

5. The learned single, after hearing both the parties, held that the appellants are trespassers and that they have not made out the case for the grant of relief prayed for by them and accordingly, dismissed the writ petitions. Hence, the above appeals.

6. Admittedly, the appellants filed a suit before the Civil Court for permanent injunction and the same was dismissed for non prosecution. But, the judgment and decree passed by the Civil Court in the original suit filed by the respondents 6 and 7 had become final, consequent to which, the Government has issued patta to them. Thus, there is no dispute with regard to the title of the respondents 6 and 7 with respect to the lands in question.

7. In the light of the above and in view of the fact that the lands in question which were taken over by the Government were restored to its original character and patta was granted to the respondents 6 and 7, the claim of the appellants that they were in continuous possession and enjoyment of the lands in question and as such, the said lands have to be assigned to them, has to be rejected.

8. In the circumstances, we are of the considered opinion that the order of the learned single Judge requires no interference by this Court. Accordingly, these writ appeals are dismissed. However, there shall be no order as to costs. Consequently, CMP Nos.6871 and 6872 of 2018 are also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Principal Secretary to Government
Revenue Department (L.A1-2)
Fort St. George
Chennai 600 009.
2. The Principal Secretary cum
The Commissioner of Land Administration
Chepauk, Chennai 600 005.
3. The Collector
Namakkal District
Namakkal.
4. The District Revenue Officer
Namakkal District
Namakkal.
5. The Tahsildar
Thiruchengodu Taluk
Namakkal District.

+2cc to M/s.Muthumani Doraisami, Advocate sr.no.31539
+1cc to Government Pleader in sr.no.32262

W.A.Nos.712 & 713 of 2018

nr 12/06/2018