

xIN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 4.12.2018

CORAM
THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.31782 31803 and 31809 of 2018
and W.M.P.Nos.37014, 37015, 37032 and 37036 of 2018

1.Thiashola Plantainons Pvt. Ltd.

Rep by its Manager -finance

Mr.Soosai Arulappan,

Needari Thaishola post,

Kundah, Nilgiris

....Petitioner in all the W.Ps.

Vs.

- 1 The Secretary to Govt.
Revenue and Disaster Management Department
Survey and Settlement wing(SS-I(1)section)
Fort St.George chennai 600009
- 2 The Settlement officer and
District Revenue officer,
Gudalur Janmam lands,
Gudalur, The Nilgiris District.
- 3 The District Collector,
Collectorate, Uhdagamandalam,
The Nilgiris District.
- 4 The District Revenue officer,
Collectorate, Udhagamandalam,
The Nilgiris District.
- 5 The District Froest officer,
O/o. The District forest officer,
Gudalur, The Nilgiris District.
- 6 The Revenue Divisional officer,
O/o.The Revenue Divisional officer, Gudalur The Nilgiris.
- 7 Principal Secretary to Government,
Environment and Forest Department,
Govt. of TamilNadu,
Fort St.George, Chennai 600009.
- 8 Forest Settlement officer,
Nilgiris District, Nilgiris

....Respondents in all the W.Ps.

Prayer in W.P.No.31782 of 2018:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records of the 3rd respondent comprised in the Government order bearing Ref.No. 5579/2017 dated 26.2.2018 issued on 15.5.2018 and quash the same as being arbitrary illegal and unconstitutional.

Prayer in W.P.No.31803 of 2018:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records of the 7th respondent comprised in the order bearing Ref.No.G.O.(D) No.73, dated 19.3.2018 and quash the same as being arbitrary, illegal and unconstitutional.

Prayer in W.P.No.31809 of 2018:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records of the first respondent comprised in the Government order, dated 18.8.2017 in G.O.Ms.No.263 and quash the same as being arbitrary, illegal and unconstitutional.

For Petitioner in all Wps. : Mr.Praglad Bhat for
Mr.R.Parthasarathy

For Respondents in all WPs.: Mr.S.R.Rajagopal,
Addl. Advocate General
Assisted by
Mr.R.Santhanaraman,
Addl. Govt. Pleader (Forest)

COMMON ORDER

According to the petitioner, petitioner company are in legitimate possession and enjoyment of the subject matter of the property. The said lands fall within the definition of 'Janmam Estate'. While abolishing the zamindari system in the old Madras State by the Madras, The Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, the janmam lands in Gudalur taluk, Nilgiris district had been exempted. By virtue of the aforesaid Act, once the janmi's rights are acquired by the Government and ryotwari settlement is introduced, Government becomes the absolute owner of the said property. The aforesaid act coming into force on 27.11.1974. Under the provisions of the aforesaid Act, ryotwari patta will be limited to the lands under actual cultivation for three years immediately prior to 1.6.1969. The petitioner also paid land revenue to the department. According to the petitioner, Writ petition challenging the enactment of the Act was dismissed by this Court

and subsequently, writ appeal was also dismissed by this Court. The Hon'ble Supreme Court by order, dated 18.8.1999 passed in C.A.No.367 to 375 of 1977 while upholding The Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, held as under:

"Mr.R.F.Nariman, learned counsel for the appellants, submits that the appellants have made applications to the State Government for ryotwari patta under the provisions of section 9 of the Gudalur Janmam Abolition Act. The appellants shall pursue these applications. If an order is passed by the State government adverse to the appellants either under section 9 or under section 17 of the said Act, the appellants shall challenge the same by taking appropriate proceedings, for which purpose the appellants may be granted a period of 12 weeks. Mr.shanti Bhushan, learned counsel for the State Government, fairly states that he has no objection On the application of Mr.Nariman, learned counsel for the appellants, the civil appeals are dismissed as withdrawn.

"The appellants shall be entitled to challenge by appropriate proceedings an order passed by the State Government against them either on their applications under the said section 9 or under Section 17 of the said Act. Such order shall not be executed against them for a period of 12 weeks to enable them to challenge the same. In the challenge, all available pleas shall be open both to the appellants and to the State Government."

2. Thereafter, applications of the petitioner, dated 22.5.1975 were rejected by the Settlement Officer by an order, dated 22.10.2007. Challenging the order passed by the Settlement Officer, the petitioner has preferred an appeal before the Janmam Estates Abolition Tribunal (The District Judge, Nilgiris District) and obtained interim order. Pending appeal, petitioner also obtained benefit of the interim order. Pending appeal, notification has been issued by the Settlement Officer in Na.Ka.370/2011, dated 3.8.2011, published in the Nilgiris District Gazette under Section 53 of the Act. Section 53 of the Act reads as follows:

"S.53. If any question arises whether any land in a janmam estate is a forest or is situated in a forest, or as to the limits of a forest, it shall be determined by the Settlement Officer, subject to an appeal to the Director within

such time as may be prescribed and also to revision by the Board of revenue.

3. Challenging the aforesaid notification, writ petition in W.P.No.27058 of 2011 has been filed before this Court and the same was dismissed by this Court on 20.12.2016. The relevant paragraphs of the said order are extracted hereunder:

31. The learned counsel for the petitioners submitted that in the event of the Settlement Officer or the Tribunal granting ryotwari patta to the petitioners in respect of land which has been declared as forest by the impugned notification, it will indeed cause serious prejudice to them.

32. There appears to be force in their apprehension. Therefore, this Court directs that in the event of the petitioners being given ryotwari patta in respect of land declared as forest in the impugned notification, to that extent, the notification will stand modified. It is hereby clarified that the findings of the Settlement Officer or the Tribunal, as the case may be, shall be on the merits of the cases and without being influenced by the impugned notification in any manner whatsoever.

33. It is seen that the proceedings before the Tribunal and the Settlement Officer are pending for quite a long time. Hence, it will sub serve the interest of justice if the cases are disposed of at the earliest, so that the parties are aware of their respective rights."

4. Pursuant to the order, dated 20.12.2016, petitioner preferred an appeal in C.M.A.No.20 of 2008 before the Janmam Estates Abolition Tribunal. On 7.4.2017, the Tribunal set aside the order passed by the Settlement Officer and remitted back to the Settlement Officer for fresh consideration and pass appropriate orders. In the meantime, the Government by the impugned G.O.Ms.No.263, dated 18.8.2017 issued notification, declaring that an area of 5809.06 acres of lands, including the petitioner's lands be handed over to the Forest department. Challenging the G.O.Ms.No.263, dated 18.8.2017 and G.O.(D) No.73, dated 19.3.2018, the petitioner company has filed these three writ petitions.

5. The learned Additional Advocate General stoutly denied that the petitioner is entitled for grant of patta under Section 9 of the Gudalur Janmam Estates (Abolition and Conversion into

Ryotwari) Act. He further submitted that the petitioner has challenged the aforesaid Act and the same was dismissed by this Court. The petitioner also preferred an appeal before the Tribunal against the order passed by the Settlement Officer and the same was remitted back to the Settlement Officer to decide the matter afresh. Therefore, the impugned order passed by the Settlement Officer under Section 8 and 9 of The Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 has not attained finality. Petitioner has been safeguarded by order, dated 20.12.2016. Petitioner has every right to seek modification of the order passed by the Settlement Officer. Till such time, petitioner cannot challenge the impugned orders passed by the Government.

6 In view of the above, with the consent of parties, this Court is inclined to pass the following order:

(i) The Settlement Officer, (Gudalur Janmam lands), Udhagamandalam, is directed to dispose of the petitioner's application for grant of patta in proceedings in R.C.VI/27932/2001 pending before him, within a period of three months from the date of receipt a copy of this order.

(ii) The Settlement Officer shall consider the said application in the light of the judgment passed in C.M.A.No.20 of 2008, dated 7.4.2017, if necessary, the Settlement Officer shall provide opportunities to both parties and decide the issues afresh, in accordance with law.

(iii) It is needless to say that petitioner's right has been safeguarded by order, dated 20.12.2016 in para 32 of the order passed in W.P.No.27058 of 2011.

Consequently, these writ petitions stands disposed of with the above directions. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

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Sub Assistant Registrar

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To

1 The Secretary to Government,
Revenue and Disaster Management Department,
Survey and Settlement wing(SS-I(1)section),Fort St.George,
Chennai-9.

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- 2 The Settlement officer and District Revenue officer,
Gudalur Janmam lands, Gudalur, The Nilgiris District.
- 3 The District Collector,
Collectorate, Udhagamandalam, The Nilgiris District.
- 4 The District Revenue officer,
Collectorate, Udhagamandalam, The Nilgiris District.
- 5 The District Forest officer,
O/o. The District forest officer, Gudalur,
The Nilgiris District.
- 6 The Revenue Divisional officer,
O/o. The Revenue Divisional officer,
Gudalur The Nilgiris
- 7 Principal Secretary to Government,
Environment and Forest Department,
Govt. of TamilNadu, Fort St.George,
Chennai 600009.
- 8 Forest Settlement officer,
Nilgiris District, Nilgiris.

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No. 83852
+1cc to The Government Pleader, S.R.No. 83302

W.P.No.31782 31803 and 31809 of 2018
and W.M.P.Nos.37014, 37015,
37032 and 37036 of 2018

VSNI (CO)

rrs 22/01/2019

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