

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.13118 of 2012
and M.P.Nos.1 and 2 of 2015

- 1.Mr.P.N.S.Gopinath
- 2.Mr.P.N.Surulivel
- 3.Mrs.Sheeladevi
- 4.Mrs.Veni
- 5.Mrs.S.Chinnammal
- 6.Mrs.Ammalu Ammal
- 7.Mr.Subramani

....Petitioners

vs.

1. The Principal Secretary and
Commissioner of Land Administration,
Chepauk,
Chennai - 600 005.
2. The District Collector,
Theni District.
3. The District Revenue Officer,
Theni.
4. The Revenue Divisional Officer,
Periyakulam,
Theni District.
5. The Tahsildar,
Andipatty Taluk,
Theni District.
6. Mayiladumparai Panchayat Union,
by President Mayiladumparai Village,
Andipatty Taluk, Theni District.
7. Varusanadu Pagudi Kanmaai Pasana
Vivasayigal Sangam (Regn.No.247/2019),
Rep. by its President Mr.M.Ganesan
Vaigai Nagar, Varusanadu Main Road,
Andipatti Taluk, Theni District - 625 579.

8. P.S.Arivazhagan,
The President, Panchantangi Kanmai Meetpukulu
Dharmarajapuram, Varusanadu - 625 579,
Theni District.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, call for the records in Impugned proceedings No.F2/26643/2011 dated 20.03.2012 on the file of the 1st respondent herein and quash the same and direct the respondents to maintain the 2C patta issued by the 5th respondent in favour of the petitioners.

For Petitioners : Mr.S.Sadasharam

For Respondents : Mr.A.N.Thami Durai for R1 to R5
Special Government Pleader
Mr.R.M.Muthu Kumar for R6
Mr.L.Chandra Kumar for R7
Mr.V.I.Prashanth for R8

ORDER

The writ petition has been filed by the petitioners to quash the impugned proceedings No.F2/26643/2011 dated 20.03.2012 on the file of the first respondent herein and direct the respondents to maintain the 2C patta issued by the fifth respondent in favour of the petitioners.

2.The case of the petitioners is that the petitioners and their ancestors planted, cultivated and developed elavam trees, coconut trees and tamarind trees of various numbers in various extent of lands in Survey No.550, Panchantangi Kanmai Poramboke land prior to 1970 and having succeeded to the same. The petitioners applied to the fifth respondent herein for issuance of 2C patta to harvest usufructs from the trees of their own, under the provisions of the Revenue Standing Orders of Government of Tamil Nadu and on that applications, the 5th respondent inspected and surveyed the lands in question and after verifying the fact that trees are fruit bearing and after getting the recommendation from Varusanadu Panchayat on 03.09.1996, the fifth respondent issued 2C patta on 05.12.1996 in favour of the petitioners. Thereafter, the fourth respondent herein without any jurisdiction and contrary to the mandatory provisions of Revenue Standing Orders of the Government of Tamil Nadu suo-moto cancelled 2C Patta by order dated 27.09.1997. The 2C patta issued by the fifth respondent was subject to certain conditions and the petitioners never violated the conditions. Aggrieved against the order of the fourth respondent, the

petitioners filed a writ petition in W.P.No.15287 of 1997 before this Court. This Court by its order dated 07.10.1997 initially granted interim stay which was made absolute and on 27.04.2004 allowed the writ petition by setting aside impugned order dated 27.09.1997 issued by the fourth respondent on the ground of violation of principle of natural justice. Accordingly, the writ petition was allowed. Challenging the same, the said order. Thereafter on 04.08.2006, Varusanadu Panchayat again passed a resolution recommending for issue of 2C patta following the No Objection of the Commissioner of Mayiladumparai Panchayat Union. In spite of the orders passed by this Court and in spite of resolution already passed by the Panchayat Union, the Commissioner by letter dated 13.12.2006 called upon the petitioners to remove the standing tress on or before 31.12.2006 and challenging the said letter, the petitioners filed writ petition in W.P.No.1178 of 2007 before the Madurai Bench of Madras High Court and the writ petition was allowed on 04.08.2008. Subsequently, the petitioners filed another writ petition in W.P.No.7194 of 2009 before the Madurai Bench of Madras High Court, seeking a direction to the respondents therein including the Commissioner of Mayiladumparai Village Panchayat Union not to interfere with the peaceful possession and enjoyment of the petitioner's right over their own standing trees in Survey No.550 in Mayiladumparai Village, Theni District and the said petition was disposed of by this Court by its order dated 11.03.2010, whereby the injunction against the dispossession, interference and cutting of the trees already granted in M.P.No.2 of 2009 was directed to be continued with direction to the third respondent herein to pass orders in the appeal on merits and the appeal was disposed of on 11.08.2011. Aggrieved by the said order, the petitioners filed a revision petition before the first respondent in the month of September 2011. Aggrieved against the same, the petitioners preferred a writ petition in W.P.No.25990 of 2011 before this Court. This Court by its order dated 11.11.2011 disposed of the writ petition by confirming the order of the first respondent on 20.03.2012 against which the present writ petition filed before this Court.

3.The learned counsel appearing for the petitioners would submit that the original Authority, Appellant Authority and the revision Authority concurrently held against the petitioners only on the simple ground that the petitioners entitled as per G.O.Ms.No.705 only 5 tamarind trees or 25 coconut trees or 50 palm trees. However, in the present case, the petitioners were enjoying 100 trees. Accordingly, the District Revenue Officer have no authority under the Revenue Standing Orders of the Government suo-moto entertain the petition and cancelled 2C patta. Hence, he prayed for allowing this writ petition.

4.The learned Special Government Pleader appearing for the respondents 1 to 5 would submit that all the persons are single family enjoying more than 100 trees which is against G.O.Ms.No.705. Accordingly, the originally Authority has rightly cancelled the patta since the original Authority, Appellate Authority and the revision Authority have concurrently held against the petitioners and arrived a factual conclusion which cannot be interfered with. He would further submit that the Revenue Officials have taken effective steps to remove all the encroachments and has agreed to restore the same to its original depth of Panchantangi Kanmai.

5.The learned counsel appearing for the seventh respondent would submit that they are agriculturists and they are unable to enjoy the land due to encroachments made by the petitioners and requesting the respondents 1 to 5 to remove all the encroachments made by encroachers and restore the same to its original position within a reasonable time as fixed by this Court.

6.Considering the facts and circumstances, the petitioners entitled as per G.O.Ms.No.705 only 5 tamarind trees or 25 coconut trees or 50 palm trees. However, in the present case all the persons are single family enjoying more than 100 trees which is against G.O.Ms.No.705 and the submissions made by the learned Special Government Pleader and the learned counsel appearing for the seventh respondent, I am inclined to issued following direction to direct the Revenue Officials to remove all the encroachments made by the petitioners and encroachers within a period of six weeks from the date of receipt of a copy of this order and restore Panchantangi Kanmai to its original position after obtaining necessary funds from the District Collector or from the Competent Authority within a period of six months from the date of receipt of a copy of this order, a visual report shall be submitted before the Registrar General of this Court after removal of all the encroachments and the Revenue Officials are prohibited to grant any quarry licenses in the Panchantangi Kanmai.

7.With the above observation and direction, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Principal Secretary and
Commissioner of Land Administration,
Chepauk,
Chennai - 600 005.
2. The District Collector,
Theni District.
3. The District Revenue Officer,
Theni.
4. The Revenue Divisional Officer,
Periyakulam,
Theni District.
5. The Tahsildar,
Andipatty Taluk,
Theni District.

Copy to

The Registrar General,
Madras High Court,
Chennai - 600 104.

- +1 CC to Mr.S.Sadasharam, Advocate sr 96313.
- +1 CC to Mr.L.Chandrakumar, Advocate sr 96322.
- +1 CC to Mr.V.I.Prashanth, Advocate sr 96402.
- +1 CC to Govt. Pleader sr 96607.

W.P.No.13118 of 2012

सत्यमेव जयते

RSV (CO)
SP (19/12/2019)

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