

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No,27441 of 2009 and  
M.P.No.1 of 2009

Gandhi Kamaraj Social Welfare Foundation,  
No.6, Thulasinga Perumal Koil 2nd Lane,  
Triplicane,  
Chennai-600 005.

rep. by its Chairman  
P.Ganesan

... Petitioner

(Petitioner Substituted as per order  
dated 24/09/2019 made in WMP.No.27944 of 2019  
in WP.No.27441 of 2009 by TRJ)

Vs.

1. State of Tamil Nadu rep. by  
its Secretary to Government,  
Revenue Department,  
Fort St. George, Chennai-600 009.
2. The Commissioner of Land Administration  
and Special Commissioner,  
Chepauk, Chennai-600 005.
- 3.The District Collector,  
Kancheepuram District,  
Kancheepuram.
- 4.The District Revenue Officer,  
Kancheepuram District,  
Kancheepuram.
- 5.The Revenue Divisional Officer,  
Chengalpattu,  
Kancheepuram District.
6. The Tahsildar,  
Tambaram Taluk,  
Kancheepuram District.

...Respondents

Prayer: Writ petition filed under Article 226 of the  
Constitution of India to issue a Writ of Mandamus, forbearing

the respondents from interfering with the peaceful possession and enjoyment of the land situated in S.No.574 (62 acres), S.No.707 (62 acres), S.No.231 (7.58 acres) totalling 131.58 cents situated at Sholinganallur Village, Tambaram Taluk, Kancheepuram District.

|                 |                                                                                           |
|-----------------|-------------------------------------------------------------------------------------------|
| For Petitioner  | : Mr.B.Manimaran                                                                          |
| For Respondents | : Mr.A.Kumar,                                                                             |
| 1 to 6          | Additional Advocate General<br>assisted by Mr.E.Balamurgan,<br>Special Government Pleader |

#### O R D E R

The Writ Petition has been filed seeking to issue a Writ of Mandamus, forbearing the respondents from interfering with the peaceful possession and enjoyment of the lands situated in S.No.574 (62 acres), S.No.707 (62 acres), S.No.231 (7.58 acres) totalling 131.58 cents at Sholinganallur Village, Tambaram Taluk, Kancheepuram District.

2. Learned Counsel appearing for the petitioner would submit that the petitioner is a Registered Trust which was formed with the laudable object of carrying out social welfare activities such as to promote Education, Health, Orphanage, Old Age Homes, Mental Retardation Centres, Medical Camps, Khadi Training Institute, Medical College, Nursing College and Small Scale Industries etc. Therefore, they approached the Government seeking assignment of lands. The State Government also has assigned 131 acres and 58 cents in S.No.574 (62 acres), S.No.707 (62 acres), S.No.231 (7.58 cents) situated at Sholinganallur Village, Tambaram Taluk, Kancheepuram District in favour of the petitioner Trust in the year 1971. Since then, the petitioner Trust is in possession and enjoyment of the said lands and also carrying out cultivation activities therein which is evident from the Certificate issued by the Tahsildar, Saidapet Taluk in R.C.No.50618/84/B1 dated 23.6.1984.

3. The learned Counsel for the petitioner would further submit that the Government have fixed an amount of Rs.3,17,500/- towards land cost and directed the Revenue Authorities to collect the said amount from the petitioner Trust. Therefore, the petitioner Trust has made representations repeatedly to the respondents seeking assignment of patta for the above said lands. On the basis of the repeated representations of the petitioner Trust, the Tahsildar, Saidapet has issued an Enquiry Notice in R.C.40618/84.B1 dated 23.6.1984, directing the petitioner to appear before the Office of the Tahsildar,

Saidapet on 05.07.1984. Accordingly, the petitioner has also appeared before the Tahsildar, Saidapet on the said date. In pursuant to the above said enquiry, the District Revenue Officer, Chengalpet has issued a Proceedings in Rc.40616/83 B1 dated 24.02.1988 granting permission to the petitioner Trust to carry out the cultivation activities in the above said lands with a further direction to the Revenue Authorities to collect the appropriate assessment amount from the petitioner Trust for the said lands. Thereafter, the petitioner Trust made many representations to the Revenue Authorities to collect the assessment amount and to issue patta in their favour. But, till date, there was no response.

4. The learned Counsel for the petitioner Trust would also submit that the Tahsildar, Saidapet has issued a Certificate in R.C.40616/70 B1 dated 09.02.1993 that the petitioner Trust and its members are in possession and enjoyment of the lands in S.No.574(62 acres), S.No.707 (62 acres), S.No.231 (7.58 cents) totalling 131.58 cents for the past 20 years. Later on, the District Revenue Officer, Chengalpattu has sent a reply in L.Dis.No.114127/93.82 (B2) dated 23.12.1993 to the petitioner Trust stating that instructions were given to the Revenue Authorities to expedite the matter in their favour. However, there was no any response thereafter. In the meanwhile, patta in respect of 7 acres in S.No.231 was granted to the rich people who are residing there. As against the same, the petitioner Trust made representations to the respondents for which also a Memo in Na.Ka.No.F2.23201/2008 dated 19.8.2008 was issued by the 2nd respondent instructing the petitioner Trust to approach the District Revenue Officer, Kancheepuram for redressal of the grievances.

5. The learned Counsel for the petitioner Trust would further submit that in the meantime, the Secretary to Government, Revenue Department, Chennai, has sent a letter in Letter No.109 dated 27.8.1998 to the petitioner Trust stating that the District Revenue Officer, Kancheepuram has been directed to send a detailed report to the Government so as to assign and grant patta in favour of the petitioner Trust. Again, there was no response. In view of the repeated representations made by the petitioner Trust, the Commissioner of Land Administration, Chennai, has sent a letter in NaKa.F2/18792/09 dated 18.08.2009 to the District Revenue Officer, Kancheepuram seeking a detailed report on the representations made by the petitioner Trust seeking assignment of lands-in-question. Again, there was no response. In the meanwhile, the Deputy Secretary to Government, Revenue Department, Chennai, has sent a letter in Lr.No.34019/Ni Mu 1

(1)/2009 dated 15.9.2009 to the District Collector, Kancheepuram to take appropriate action on the representations made by the petitioner Trust dated 31.8.2009 seeking assignment of patta for the lands-in-question and to send a report in this regard through the Commissioner of Land Administration, Chennai.

6. The learned Counsel for the petitioner would also submit that as the petitioner Trust has been made to run from pillar to post, they approached this Court by filing W.P.No.24183 of 2009 seeking Mandamus, directing the 1st respondent therein to consider and pass orders on the representations made by the petitioner Trust dated 31.8.2009 and this Court also by order dated 07.12.2009 while disposing of the said Writ Petition, directed the 1st respondent to consider and pass orders on the representation of the petitioner dated 31.8.2009 in accordance with law, following the procedure contemplated under the relevant rules and after affording reasonable opportunity to all the parties concerned, within a period of 16 weeks from the date of receipt of a copy of the order. But no steps have been taken by the respondents. In the meanwhile, since the respondents have started disturbing the petitioner Trust's peaceful possession and enjoyment, they have advised to come to this Court for the said relief.

7. Mr.A.Kumar, learned Additional Advocate General assisted by Mr.E.Balamurgan, learned Special Government Pleader appearing for the respondents 1 to 6 urging this Court to dismiss the writ petition stated that the prayer in the writ petition has already become infructuous since as rightly contended by the learned Counsel for the petitioner Trust when they filed a Writ Petition in W.P.No.24183/2009 under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to consider their representation dated 31.8.2009, this Court while disposing of the said Writ Petition by order dated 07.12.2009, directed the respondents to consider and dispose of the representation of the petitioner in accordance with law following the procedure contemplated under the relevant rules and after affording reasonable opportunity to all the parties concerned, within a period of 16 weeks from the date of receipt of a copy of the order and in compliance of the order of this Court, the respondents have passed an order rejecting the request of the petitioner by a detailed order dated 21.4.2010. The said rejection order has not been challenged till date by the petitioner Trust. It clearly shows that the petitioner Trust is not in possession and enjoyment of even in a small piece of land at any point of time because no such document was produced before the respondents.

8. The learned Additional Advocate General further stated that besides, the land-in-question is coming within the belt area and also the banned area as per G.O.Ms.No.1135, Revenue Department, dated 17.3.1962. In addition thereto, a Division Bench of this Court also, while considering the land-in-question in W.P.No.10821/2017 vide order dated 29.4.2019 has made a series of directions not assigning the land-in-question to anyone with a further direction to stop any constructions, if any, carried out thereon and relocate the buildings if any constructed on the lands to some other permitted area within a period of one year. It was also made it clear that in case of any encroachments made on the wetlands, the 8<sup>th</sup> respondent therein was directed to act upon and ensure that all the encroachments are removed without showing any indulgence or sympathy to them by showing the order of this Court. A further direction also has been given to disconnect the water supply and electricity supply by informing the Chairman, Tamil Nadu Electricity Board and CMWSSB and any such other Authority supplying water and no civil court shall grant any interim order without invoking Order 18 Rule 18 of C.P.C. which provides for the legal leniency to the court to personally inspect the property or thing-in-question and prepare a Memorandum of such inspection. In view of the direction given by the Division Bench of this Court on 29.04.2019 in W.P.No.10821/2017, the prayer of the petitioner is wholly unlawful and untenable. Therefore, this Writ Petition is liable to be dismissed.

9. Heard the learned Counsel on either side and I have also carefully perused the materials available on record.

10. At the outset, when the petitioner Trust has asked for assignment of the lands in Survey Nos.231, 574 and 707 of Sholinganallur Village, a perusal of the records shows that the S.No.231/1 is situated along the ECR Road and this land is private patta land. It also appears that some of the parts of the land in Survey Number 231/1 to an extent of 1.82.00 hectare, bearing Patta No.1027 has been given to one Benjamin Seriyar, Son of Ramachandiran and 01.21.05 hectare of land has been given by patta No.1069 to Bulsur Benjamin Seriyar. Likewise, in respect of Survey No.574/1, 12.22.00 hectare of land is shown as Tharisu and 00.80.0 hectare has been assigned to NHRD Government of India. While so, in respect of the land in Survey No.707, 09.37.5 hectare of land is earmarked as 'Kazhuveli' which means marsh land meaning grass with moisture and particularly, it is a place where the sea water (salt water) and river water (good water) merge with each other. Therefore, it appears that the Division Bench of this Court also in W.P.No.10821 of 2017 by

order dated 29.04.2019 has again given several directions not to assign the land to any one with a further direction to remove the encroachments without showing any leniency or sympathy to anyone. A specific direction was also given to the Chief Secretary to monitor the operation of the order passed by this Court. Since the land in question has been taken up for consideration by this Court in W.P.No.10821 of 2017 and several directions have been issued on 29.04.2019 to remove the encroachments and not to issue any assignment of patta to any one in respect of the lands covered in Survey Nos.231, 574 and 707 of Sholinganallur Village, this issue has been concluded. Therefore, the present Writ Petition, which has been filed seeking the same relief cannot be maintainable. Secondly, the petitioner was already issued with a rejection order dated 21.4.2010 for assignment of patta in respect of the lands-in-question.

11. At this stage, the learned Counsel for the petitioner submitted that the said order has not been served on him.

12. Be that as it may, as I have narrated above, when the request of the petitioner has already been considered and that was also rejected by the respondents, I find no merit in the present Writ Petition.

13. At this stage, the learned Additional Advocate General appearing for the respondents 1 to 6 brought to the notice of this Court that similar request made by an identical Association was already rejected by an order dated 07.08.2011 by the District Collector, Kancheepuram. The said order has not been questioned till date. Therefore, the case of the petitioner Trust could not be considered.

14. In view of all the above, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.S. -VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to Government,  
State of Tamil Nadu,  
Revenue Department,  
Fort St. George, Chennai-600 009.
  2. The Commissioner of Land Administration  
and Special Commissioner,  
Chepauk, Chennai-600 005.
  - 3.The District Collector,  
Kancheepuram District,  
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  - 4.The District Revenue Officer,  
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  - 5.The Revenue Divisional Officer,  
Chengalpattu,  
Kancheepuram District.
  6. The Tahsildar,  
Tambaram Taluk,  
Kancheepuram District.
- +1 cc to M/s.B.Manimaran,Advocate Sr.No. 82478  
+1 cc to M/s.A.Ilayaperumal,Advocate Sr.No. 82143  
+1 cc to The Government Pleader Sr.No. 82325

AKM/19.12.19/7P- 10C /

W.P.No.27441 of 2009