



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019

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THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.14843 of 2005

and

W.P.M.P.No.16182 of 2005

S.Murugan

..Petitioner

Vs

1.The Assistant Settlement Officer, (North)
Director of Survey & Settlements,
Chepauk, Chennai - 5.

2.The Village Administrative Officer
Pallikaranai, Tambaram Taluk
Kancheepuram District.

3.A.Sethu
S/o.Annamalai
No.9/206, Venkateshwara Lane
Choolaimedu
Chennai - 600 094.

(R3-impleaded as per order dated 29.01.2019
in W.P.M.P.No.139/2012 in W.P.No.14843/2005)

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records relating to O.Mu.No.7774/2003 dated 17.12.2004 on the file of the first respondent and to issue a writ of Certiorarified Mandamus, to quash the impugned order in ref.O.Mu.No.7774/2003 dated 17.12.2004 on the file of the 1st respondent herein and direct the first respondent to restore the original classification of the Patta land bearing Patta No.376 in respect of Patta Land comprised in R.S.No.431/3 of an extent of 2.2. Acres situated at Pallikaranai Village, Tambaram Taluk, Kancheepuram District and reclassify the said land as patta land instead of (Poramboke) Nanjai tharisu land.



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For Petitioner : Mr.Ramesh
for M/s.K.S/Ariazhagan

For Respondents: M/s.R.Janaki
Additional Government Pleader
for R1 & R2

Mr.P.P.Shanmugasundaram for R3

O R D E R

The order passed by the Assistant Settlement Officer (North), Chennai in proceedings dated 17.12.2004 is under challenge in the present writ petition.

2.The impugned order states that the claim set out by the writ petitioner cannot be adjudicated by the Assistant Settlement Officer and he has no authority to decide the issues raised by the writ petitioner. The claim of the writ petitioner is for a direction to direct the 1st respondent to restore the original classification of patta No.376, instead of patta land comprised in R.S.No.431/3 of an extent of 2.2 Acres situated at Pallikaranai Village, Tambaram Taluk, Kancheepuram District and reclassify the said land as patta land instead of (Poramboke) Nanjai and Tharису land.

3.At the outset, the petitioner seeks reclassification of the land as patta land instead of (Poramboke) Nanjai and Tharису land. Reclassification is to be done with reference to the provisions of the statute and by taking a decision by the Government. Such a reclassification cannot be issued by way of a direction in a writ proceedings. Reclassification of lands are to be done by making proper assessment and with reference to the nature of the land and by following the procedures as contemplated. Thus, such a relief sought for by the petitioner to direct the 1st respondent to reclassify the land cannot be granted by this Court in a writ proceedings under Article 226 of the Constitution of India.

4.The grievances of the writ petitioner is that the patta land has been reclassified as (Poramboke) Nanjai and Tharису land. Thus, he seeks further reclassification to its original position. However, all these issues are to be adjudicated by the competent authorities by conducting an inspection, enquiry and by verifying the original revenue records, nature of the land, etc., Such an exercise can never be done in a writ proceedings.



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5. The Tahsildar, Sholinganallur was directed to submit a status report in respect of the land in question concerned, the Status report was filed by the 4th respondent on 24th January 2019, which reads as under:

"1. I am the impleaded by the Hon'ble High Court on 22.01.2019 respondent in the above Writ Petition filed by the petitioner. I am fully acquainted with the facts of this case from the records. I am filling this status report on my behalf and on behalf of first respondent.

2. I humbly submit that I have inspected the petitioner premises Land Survey No.431/3 along with Revenue Inspector and the Village Administrative Officer. The land is registered in the revenue records, as detailed below:-

1. Name of the Village	: Pallikaranai
Survey No.	: 431/3
Extant	: 2.2 Acres
Patta No.	: 376
Classification	: Tharisu (Kappu Kadugal)
(As per G.O. (Ms.) No. 62,	

Dated. 10.05.2018)

I humbly submit that As per G.O. (Ms.) No. 62, Dated 10.05.2018 the Government have declared as reserve forest under Section 16 of the Tamil Nadu Forest Act 1882.

It is submitted in the notification of schedule of properties survey no 431 to an extent 13.20.0 is also declared as forest land.

It is also submitted that the necessary have been carried out in Revenue record and now land is reserved forest maintained by the forest Department.

It is therefore prayed that this Hon'ble High Court may be pleased to accept this status report and pass such orders as deem fit in the interest of justice."

6. Pursuant to the report, the Government Notification issued on 18th July 2018 is also submitted before this Court and as per the notification, the said portion of the land has been declared as Reserved Forests under the provisions of the Tamil Nadu forest Act, 1882.

7. By invoking the powers under the Forest Act, the said Notification was issued under Section 16 of the Act. When the Government has taken a decision and issue notification, invoking the powers under the Forest Act by declaring the said portion of the land as Reserved Forest, this Court is of an opinion that the relief as such sought for by reclassification of the land as



patta land does not arise at all. Once the land is declared as Reserved Forest land, this Court cannot consider the relief for reclassification of the said land as Forest land.

8. Under these circumstances, the writ petitioner has not made out any acceptable ground for the purpose of considering the relief as such sought for in the present writ petition and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

1. The Assistant Settlement Officer, (North)
Director of Survey & Settlements,
Chepauk, Chennai - 5.

2. The Village Administrative Officer
Pallikaranai, Tambaram Taluk
Kancheepuram District.

+1 CC to Mr. P. P. Shanmugasundaram, Advocate sr 8330.
+1 CC to Govt. Pleader sr 7607.

W.P.No.14843 of 2005

NRL (CO)
SP (20/02/2019)