

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 01-08-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.2102 of 2019

S.Murugan

... Appellant

-vs-

1. The Assistant Settlement Officer (North),
Director of Survey & Settlements,
Chepauk, Chennai - 600 005.
 2. The Village Administrative Officer,
Pallikaranai, Tambaram Taluk,
Kancheepuram District.
 3. A.Sethu
- Respondents

Appeal under Clause 15 of the Letters Patent against
the Order, dated 29.01.2019, passed in W.P.No.14843 of 2005 on
the file of this Court.

W.P.No.14843 of 2005:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a 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 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.

For Appellant : Mr.S.Ramesh

For Respondents 1 & 2 : Mr.A.N.Thambidurai,
Spl.Govt.Pleader.

JUDGMENT
(By Dr.Vineet Kothari,J.)

This Writ Appeal is directed against the order, dated 29.01.2019, passed in W.P.No.14843 of 2005, whereby the learned Single Judge dismissed the Writ Petition with the following observations :

'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 issued 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.'

2. Learned counsel for the Appellant has submitted that the Assistant Settlement Officer could not have unilaterally changed the character of the land in question from 'Private' to 'Public'. He also brought to our notice that G.O.Ms.No.62, dated 10.05.2018, was issued during the pendency of the Writ Petition, declaring the land in question as Reserved Forest, under Section 16 of the Tamil Nadu Forest Act,1882.

3. We have heard the learned counsel for the parties.

4. We are of the opinion that the Appellant could approach the higher revenue authority as against the order of the Assistant Settlement Officer, raising his grievance in the matter, and such a higher revenue authority could decide the issue on the basis of relevant material produced by the

Appellant.

5. Therefore, we relegate the Appellant to the Revenue District Officer (RDO), and, if any appeal is filed against the order of the Assistant Settlement Officer (North), Chennai, dated 17.12.2004, the said Revenue District Officer shall decide the appeal on merit and in accordance with law. For challenging G.O.Ms.No.62, dated 10.05.2018, declaring the land in question as Reserved Forest also, we give liberty to the Appellant to lay a challenge to the same in accordance with law.

6. With the above direction and liberty to the Appellant, this Writ Appeal is disposed of.

7. We make it clear that on approach of the Appellant, the authority concerned shall decide the matter uninfluenced by any of the observations made by the learned Single Judge in the order, dated 29.01.2019, passed in W.P.No.14843 of 2005, which is impugned in this Appeal.

8.No costs. Consequently, the connected C.M.P.No.14265 of 2019 is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Settlement Officer (North),
Director of Survey & Settlements,
Chepauk, Chennai - 600 005.
2. The Village Administrative Officer,
Pallikaranai, Tambaram Taluk,
Kancheepuram District.

W.A.No.2102 OF 2019

SS(CO)
CS/19/09/2019