



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)Nos.615 of 2018 and 1091 of 2019

and

C.M.P. (MD)Nos.3396 of 2018 and 9818 of 2019

- 1.The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai.
- 2.The Principal Secretary and
Commissioner of Land Administration,
Ezhilagam, Chennai.
- 3.The Principal Commissioner and Director
of Survey and Settlement,
Chennai.
- 4.The District Collector,
Kanniyakumari District @ Nagercoil.
- 5.The Tahsildar,
Agasteeswaram Taluk @ Nagercoil,
Kanniyakumari District. ... Appellants/Respondents in
W.A. (MD)No.615 of 2018

Consumer Protection Association,
Kanniyakumari District,
Nagercoil,
Rep. by its President,
S.R.Sree Ram,
Door No.4/1, Gandhi Street, Kottar,
Nagercoil-2,
Nagercoil Village,
Agasteeswaram Taluk,
Kanniyakumari District.

... Appellants/3rd Party in
W.A. (MD)No.1091 of 2019

Vs.

The Church of South India Trust Association,
Kanniyakumari Diocese,
Rep.By the Bishop of Kannaiyakumari Diocese,
Rt.Rev.Devakadasham, Bishop House,
Nagercoil.

..Respondent/Petitioner in
W.A. (MD)No.615 of 2018



1.The Church of South India Trust Association,
Kanniyakumari Diocese,
Rep.By the Bishop of Kannaiyakumari Diocese,
Rt.Rev.Devakadasham, Bishop House,
Nagercoil. ...1st Respondent/Writ Petitioner

2.The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai.

3.The Principal Secretary and
Commissioner of Land Administration,
Ezhilagam, Chennai.

4.The Principal Commissioner and Director
of Survey and Settlement,
Chennai.

5.The District Collector,
Kanniyakumari District @ Nagercoil.

6.The Tahsildar,
Agasteeswaram Taluk @ Nagercoil,
Kanniyakumari District.

..Respondents 2 to 6/
Respondents 1 to 5 in
W.A. (MD)No.1091 of 2019

COMMON PRAYER: Writ Appeals are filed under Clause 15 of the Letter Patent Act, to set aside the order dated 02.03.2017 made in W.P.(MD)No.12448 of 2011 of this Court and allow this writ appeal.

Prayer in WP(MD). 12448/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the Respondent to issue patta to the Petitioner for the land measuring an extent of 2 acres 9.235 cents in Survey No.1247/3, 1247/4 and 1247/5 of Nagercoil Village, Agastheeswaram Taluk, Kanyakumari District by changing the classification from poramboke land to patta land measuring an extent of 2 acres 9.235 cents in Survey No.1247/3, 1247/4 and 1247/5 of Nagercoil Village, Agasteeswaram Taluk, Kanyakumari District.

For Appellants

: Mr.A.K.Baskara Pandian
Special Government Pleader

For Respondent

: Mr.R.Deepak
(in W.A. (MD)No.615 of 2018)



For Appellant : Mr.V.Meenakshisundaram
For R1 : Mr.R.Deepak
For R2 to R6 : Mr.A.K.Baskara Pandian
Special Government Pleader
(in W.A.(MD)No.1091 of 2019)

WEB COPY

COMMON JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard the learned counsel appearing on either side. By consent on either side, these writ appeals are taken up for final disposal.

2. These appeals have been filed challenging the order made in W.P.(MD)No.12448 of 2011 dated 02.03.2017. The writ petition was filed by the Church of South India Trust Association praying for writ of mandamus to issue patta to the petitioner in respect of the land in question.

3. The basis of the claim of the writ petitioner was the decree obtained in O.S.No.968 of 1981 on the file of the learned Principal District Munsif, Nagercoil, wherein the classification of the land as poramboke land was held to be incorrect and the suit was decreed in favour of the writ petitioner. The officials alone were arrayed as defendants in the suit, who filed an appeal before the sub Court in A.S.No.3 of 1988, which was dismissed on 08.12.1989. Therefore, it is the case of the writ petitioner that the decree having become final and reclassification of land as Poramboke is held to be illegal, the patta has to be issued in favour of the trust association. The Government is on appeal as against the said order and the other appellant is a Public Interest Litigant.

4. The objection raised by the Government to the direction issued is on the legal ground that the writ petitioner Association cannot file writ petition to execute the civil Court decree. This submission is perfectly correct as the writ Court cannot be converted into Executive Court. There has been subsequent development in the matter. The public interest litigant had filed a suit in O.S.No.264 of 2005 on the file of the I Additional District Munsif Court, Nagercoil to declare the mandatory injunction obtained by the trust association in O.S.No.968 of 1998 as null and void. The suit was dismissed for default and subsequently, an application for restoration was filed, which was allowed subject to payment of costs. This order was questioned by the Association by filing civil revision petition in CRP(MD) No.1798 of 2013. The said Civil Revision Petition was dismissed by order dated 10.06.2019 with the direction to the trial Court



to take up the main suit and dispose of the same on merits and in accordance with law within a period of four months from the date of receipt of a copy of that order. In all probabilities, the copy of the order would have been received by the trial Court by now.

5. Considering these facts, we are of the view that the Association should agitate their rights before the civil Court in the pending suit, which in our opinion is a comprehensive suit. We find that the order and direction issued in the writ petition is yet to be implemented as the Government had filed an appeal. As on date, the land has been shown as tank poramboke land in the revenue records. This classification shall continue to be maintained and the authorities shall abide by the decree to be passed by the civil Court. It is made clear that neither the Officials nor the writ petitioner can rely upon any orders passed by the Revenue Authorities in respect of their claim and the plaintiff as well as the defendant shall establish their case before the civil Court based on oral and documentary evidence. Till the disposal of the suit, the classification of land shall continue to be remain as 'tank poramboke'.

6. These writ appeals are allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

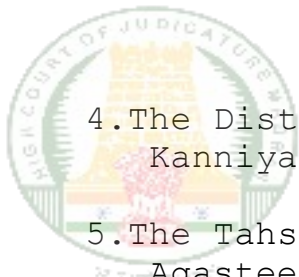
// True Copy //

Sub Assistant Registrar(CS)

ta

To

- 1.The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai.
- 2.The Principal Secretary and
Commissioner of Land Administration,
Ezhilagam, Chennai.
- 3.The Principal Commissioner and Director
of Survey and Settlement, Chennai.



4.The District Collector,
Kanniyakumari District @ Nagercoil.

5.The Tahsildar,
Agasteeswaram Taluk @ Nagercoil,
Kanniyakumari District.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-93877[F] dated 23/10/2019)

+1 CC to M/s.F.DEEPAK, Advocate (SR-94102[F] dated 24/10/2019)

+1 CC to M/s.SPL GP (SR-94250[F] dated 24/10/2019)

ORDER MADE IN
W.A. (MD) Nos. 615 of 2018 and 1091 of 2019
23.10.2019

_KM/ (07.11.2019) 5P 9C