



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.09.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

W.P (MD)No.20557 of 2019

and

W.M.P. (MD)No.17196 of 2019

S.A.Saravanamuthu

... Petitioner

Vs.

1. The Commissioner,  
Land Reforms Department,  
Ezhilagam, Cheapauk,  
Chennai-600 005.
2. The District Revenue Officer,  
Tirunelveli District,  
Tirunelveli - 627 009.
3. The Revenue Divisional Officer,  
Tirunelveli Revenue Division,  
Tirunelveli.
4. The Tahsildar,  
Tirunelveli Taluk,  
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to issue patta in the name of petitioner for lands having an extent of 10 cents in Natham Survey No.1893 and in Survey Nos.1934/4 and 1934/5, situated in Duraiyur hamlet in Gangaikondan Village II, of Tirunelveli Taluk, Tirunelveli District within a time frame fixed by this Court as per the representation made by the petitioner dated 19.08.2019.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.K.Mu.Muthu  
Additional Government Pleader

**ORDER**

Mr.F.X.Eugene, learned counsel on record for writ petitioner and Mr.K.Mu.Muthu, learned Additional Government Pleader, who accepts notice on behalf of all four respondents are before this Court.

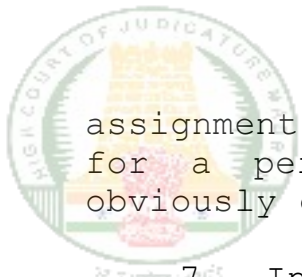
2. With consent of learned counsel on both sides, ie., learned Counsel for writ petitioner and State Counsel Mr.K.Mu.Muthu (Additional Govt. Pleader) who has accepted notice on behalf of all four respondents, main writ petition is taken up, heard out and is being disposed of.

3. At first blush, the prayer in the instant writ petition appears to be very innocuous, as the prayer is one seeking a mandamus to direct respondents to issue patta to the petitioner for lands comprised in Survey Nos.1934/4 and 1934/5 (old Survey No.1893) in Devarkulam hamlet, Gangaikondan Village II, Tirunelveli Taluk, Tirunelveli District (hereinafter 'said lands' for brevity). This Court is informed that said lands admeasure 10 cents or thereabouts.

4. As mentioned supra, though at first blush, the prayer appears to be innocuous, on a careful perusal of the case file in the light of submissions made by learned Additional Government Pleader, it comes to light that there is more to it.

5. As it would be evident from the narrative thus far, said lands are comprised of two survey Numbers viz., 1934/4 and 1934/5. There is no disputation or disagreement that these are new survey numbers and both new survey numbers are related to old Survey No.1893.

6. From the typed set of papers placed before this Court by writ petitioner, more particularly page No.7 of the typed set of papers, it comes to light that said lands form part of assignment made by fourth respondent vide proceedings dated 30.10.1981 bearing reference Ni.Mu.C3.19891/81. A further careful perusal of the assignment order reveals that it is assignment for certain individuals who had encroached upon Natham Poromboke lands. It also comes to light that this assignment has been made pursuant to Revenue Standing Order No.15(8) and Clause 21 thereunder. A further perusal of assignment order dated 30.10.1981 placed before this Court by writ petitioner as part of the case file (part of typed set of papers) reveals that a total extent of 4.31 acres of land comprised in aforesaid Old Survey No.1893 was assigned to several individuals. To be noted, 5 cents per individual. The assignment order has clearly laid down a condition or in other



assignment says that assigned lands shall not be sold or mortgaged for a period of ten (10) years. Therefore, the assignees obviously could not have dealt with said lands upto 29.10.1991.

7. In the aforesaid backdrop, learned Counsel for writ petitioner submitted that writ petitioner has purchased 5 cents each from two sets of different individuals under sale deeds dated 12.09.1991 and 30.12.1991. To be noted, vide sale deed dated 12.09.1991, a copy of which has been placed before this Court as part of the typed set filed by writ petitioner, 5 cents of land comprised in new Survey No.1934/4 has been purchased by writ petitioner from one Gandhi and vide sale deed dated 30.12.1991 a copy of which also has been placed before this Court by writ petitioner (as part of typed set of papers) another 5 cents of land has been purchased from two individuals viz., Lilly Pushpam and her son Anthony Samy and this 5 cents of land comprised in new Survey No.1934/5. Learned Counsel for writ petitioner submitted that these pieces of lands are contiguous or in other words, are adjacent to each other. The writ petitioner has now put up a compound wall for the entire 10 cents together and on that basis, writ petitioner is now seeking patta for said lands.

8. That it is assignment land, that it was purchased in the aforesaid manner and that original assignment under old Survey No.1893 has now been sub-divided as Survey Nos.1934/4 and 1934/5 are all not in dispute. However what is articulated in paragraphs 2 and 5 of the affidavit filed in support of writ petition are relevant and the same read as follows:

'2. I respectfully submit that I purchased a housing plot of 5 cents extent in village natham in Survey No.1893 in Duraiyur hamlet, in Gangaikondan Village II, of Tirunelveli Taluk, in Tirunelveli District from Gandhi, S/o Chellaiah through a registered document No.941 dated 12.11.1991 on the file of the Sub Registrar, Gangaikondan. The above said Gandhi purchased the same property from one Thangaiah by virtue of a registered sale deed document No.50 dated 24.01.1984. I also purchased 2180 sq.ft of a housing land from one Lilly Pushpam (1) W/o Arulappan and her son, one Antonysamy(2), S/o Arulappan in Village natham, in natham Survey No.1893, Gangaikondan Village II, Tirunelveli Taluk, through a registered document No.1109 dated 30.12.1991 on the file of the Sub Registrar office, Gangaikondan and in total, I purchased 10 cents. The above mentioned 2180 sq.ft housing land is the assignment land issued to Arulappan, vide proceedings of the 4<sup>th</sup> resettlement in Ni.Mu.C3.19891/81 dated 30.10.1981, and the same was inherited by his wife and son respectively Lilly Pushpam (1) and Antonysamy(2). I am in possession



and enjoyment of the 10 cents of housing plot by constructing a house with compound wall for the past 28 years.

5. I also humbly submit that upon the instructions of the 4<sup>th</sup> respondent, the Revenue Inspector of Gangaikondan Firka also sent a rectification proposal to the 4<sup>th</sup> respondent on 12.03.2015 to issue patta to my housing plot. But in that proposal, to my dismay, the Revenue Inspector of Gangaikondan Firka reported that my housing plot area is classified as Government Poramboke as per the revenue records. But it is not true that the above mentioned plot is a Government Poramboke land but the plot is my own, purchased property by virtue of registered sale deeds, and the same falls under Village Natham housing land. Hence, my housing plot has been wrongly classified as Government Poramboke in the revenue records.'

9. As already mentioned, 5 cents in Survey No.1934/4 had been purchased from one Gandhi ( S/o Chellaiah) and a perusal of the copy of sale deed placed before this Court by writ petitioner reveals that even prior to 29.10.1991 ie., before 10 years period qua one of the conditions of assignment, the lands have been dealt with and alienated. To be precise, it has been dealt with and alienated in the year 1984 itself. Relevant portion of the aforesaid sale deed dated 12.11.1991 reads as follows:

"என்னவென்றால், இதனடியில் சொத்தை நான் சுயர்ஜிதமாம் கிரயம் பெற்று செ.சுப்ரீ ஆபீஸ் 1.651.497, 498, 500/1984 நம்பர்"

10. Furthermore there is no disputation or disagreement that said Gandhi ( S/o Chellaiah) is not an assignee qua aforementioned assignees, dated 30.10.1981.

11. Therefore, there is a clear breach of condition of assignment, as far as this survey number is concerned.

12. With regard to other Survey No.1934/5 purchased under sale deed dated 30.12.1991 from two individuals ( mother and son), learned Counsel for writ petitioner submitted that they are wife and son of original assignee one Arulappan. Further a perusal of a copy of this sale deed reveals that this land has also been dealt within ten (10) years of cooling period. This is evident from the sale deed dated 30.12.1991, which reads as follows:

' எங்களில் 1 லக்க நபருக்கு செ.சுப்ரீ ஆபீஸ் 1.650.259.260.1595 of 983 நிர் ஆவணப்படி நபர்கள் பொதுவாம் அனுபவித்து வரும் தபசில் சொத்தை .....



13. Therefore, it is clear that the assignee Arulappan has dealt with said land within ten (10) years cooling period and therefore there is a breach of conditions of assignment even according to the documents placed before this Court by the writ petitioner.

14. It is made clear that this Court is now not entering into the arena of whether said lands and revenue classification of same are Natham Poromboke or Government Poromboke. Irrespective of revenue classification, the simple point that arises for consideration is there has been assignment of Government land to encroachers way back in 1981, to be precise on 30.10.1981, pursuant to a Revenue Standing Order which in turn was issued only with the objective of streamlining such encroachers and persons residing there. Therefore, if there is a breach of a condition of assignment, the same has to be viewed seriously.

15. Once there is assignment of Government lands, subject to certain conditions and once there is a breach of conditions, the Government gets rights of resumption.

16. Under the aforesaid circumstances, any direction in the nature of mandamus from this Court to direct the revenue authorities to consider the writ petitioner's request for patta in his name, will tantamount to impeding the right of resumption of State with regard to lands which were given by way of conditional assignment, that too for encroachers. Owing to all that have been set out thus far, this Court is left with the considered view that in these facts and circumstances of this case, this is not a fit case to issue mandamus as sought for. Therefore, instant Writ Petition is dismissed as bereft of merits. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS )

To

1. The Commissioner,  
Land Reforms Department,  
Ezhilagam, Cheapauk,  
Chennai-600 005.



2. The District Revenue Officer,  
Tirunelveli District,  
Tirunelveli - 627 009.

3. The Revenue Divisional Officer,  
Tirunelveli Revenue Division,  
Tirunelveli.

4. The Tahsildar,  
Tirunelveli Taluk,  
Tirunelveli.

+1 CC to M/s.F.X.EUGENE, Advocate ( SR-89056[F] dated 25/09/2019 )

+1 CC to SPECIAL GOVERNMENT PLEADER ( SR-89414[F] dated  
25/09/2019)

W.P (MD) No.20557 of 2019  
24.09.2019

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