

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.02.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.131 of 2020 and CMP No.1825 of 2020

1. P.N.S.Gopinath
P.N.Surulivel (deceased)
2. Mrs.Sheeladevi
3. Mrs.Veni
4. Mrs.S.Chinnammal
5. Mrs.Ammalu Ammal
6. Subramani

..... Appellants

-vs-

1. The Principal Secretary and Commissioner
of Land Administration,
Chepauk, Chennai - 600 005.
2. The District Collector,
Theni District.
3. The District Revenue Officer,
Theni.
4. The Revenue Divisional Officer,
Periyakulam, Theni District.
5. The Tahsildar,
Andipatty Taluk, Theni District.
6. Mayiladumparai Panchayat Union
by President, Mayiladumparai Village,
Andipatty Taluk, Theni District.
7. Varusanadu Pagudi Kanmaai Pasana
Vivasayigal Sangam (Reg.No.247/2019)
Rep by its Present Mr.M. Ganesan
Vaigai Nagar, Varasunadu Main Road,
Andipatty Taluk, Theni District 625 579.
8. P.S.Arivazhagan

.. Respondents

Prayer:-

Appeal filed under Clause 15 of the Letters Patent against the order dated 19.11.2019 passed in W.P.No.13118 of 2012.

W.P.No.13118 of 2012:-

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorari Mandamus, call for the records in impugned proceedings No.F2/26643/2011, dated 20.3.2010 on the file of the 1st respondent herein and quash the same and direct the respondents to maintain the 2C Patta issued by the 5th respondent in favour of the petitioners.

For Appellants : Mr.S.Sadasharam

For R.1 to R.6 : Mr.V.Jayaprakash Narayanan
Government Pleader

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellants and learned Government Pleader for respondents 1 to 6.

2. Challenging the order of the first respondent / Principal Secretary and Commissioner of Land Administration, dated 20.03.2012, the appellants came up in a Writ Petition before the learned Single Judge contending that the said order was erroneous both on facts and law. The issue was with regard to the continuance of 2C patta governed by the provisions of G.O.Ms.No.705 Revenue Department, dated 19.06.1992. The translated copy of the Government Order reads as under:-

Revenue Department

G.O. (Permanent) No.705 Date:19.06.1992
Order:

2-C pattas are being granted in respect of the Government poramboke land where grown up trees/developed trees namely Coconut, palm and tamarind trees and to maintain the same and to get usufructs from the same. No ceiling limit has been fixed for the grant of 2C patta either by the Revenue Divisional Officer or by the Land Administration Commissioner. In view of the same, it is brought to the notice of the Government that 2C pattas have been granted to individuals who are covener more number of trees.

2. It is to be considered to take note of the number of trees along with the income derived from it will be less and therefore it will affect the very object of the grant of 2C pattas. In order to prevent the individuals from getting more income and the benefits should reach to several persons, the Government has decided to fix the ceiling limit for grant of 2C pattas, the Government has decided to fix the ceiling limit for grant of 2C pattas. The income derived from the trees particularly coconut and tamarind trees are more and therefore, the grant of 2C patta is not a proper procedure without fixing the ceiling limit.

3. For the reasons stated above, hereafter for a family one 2C patta and for one 2C patta the maximum ceiling limit is hereby fixed is 5 tamarind trees or 25 coconut trees or 50 palm trees. The Government is hereby ordered that priority should be given to the backward class women for the grant of 2C pattas hereafter and the 2C pattas already granted status quo should be maintained.

Sd/- R.A.Seetharamdas
Special Commissioner and Government
Secretary

3. The patta granted to the appellants was found to have been violated by plantation of excess number of trees over the land in question and as a consequence whereof, the litigative battle resulted in the ultimate order dated 20.03.2012. The same describes the details of litigation which need not be reproduced herein. But, while upholding the order of the District Revenue Officer, Theni, the Commissioner of Land Administration directed the District Collector, Theni / second respondent herein to personally verify the 2C Register and also the standing trees, with a further direction to hand over only the excess number of trees to Mayiladumparai Panchayat Union for maintenance and ownership in future as well.

4. The aforesaid order, therefore, deprived the appellants only of the excess number of trees and did not deny the appellants to enjoy the usufructs of the fruit bearing trees in relation to that which fell within the permissible limits of G.O.Ms.No.705 Revenue Department, dated 19.06.1992.

5. The learned Single Judge, while proceeding to dismiss the writ petition, has observed that the appellants are a single family enjoying more than 100 trees, which is contrary to

G.O.Ms.No.705 dated 19.06.1992 and therefore, issued further direction to remove the encroachment, stated to have been made by the appellants and restore Panchantangi Kanmai (water body) to its original position and to further submit a visual report before the Registrar General of this Court. The Revenue Officials have been further prohibited from granting any quarry licenses over the Panchantangi Kanmai (water body).

6. Learned counsel for the appellants contends that the relief sought for and the relief granted are divergent, inasmuch as it would have been better that the appellants would not have filed a writ petition.

7. We accept this argument raised on behalf of the appellants as we find that the appellants are entitled to the limited relief which was granted by the Commissioner of Land and Administration and consequently, we modify the judgment dated 19.11.2019, by expunging the directions contained in paragraph 6 of the impugned judgment, but, at the same time, dismiss the writ petition and maintain the order passed by the Commissioner of Land and Administration, dated 20.03.2012. The District Collector, Theni shall proceed to act accordingly.

8. Any encroachment or otherwise beyond the limits of patta in favour of the appellants can be removed by the appropriate authority, in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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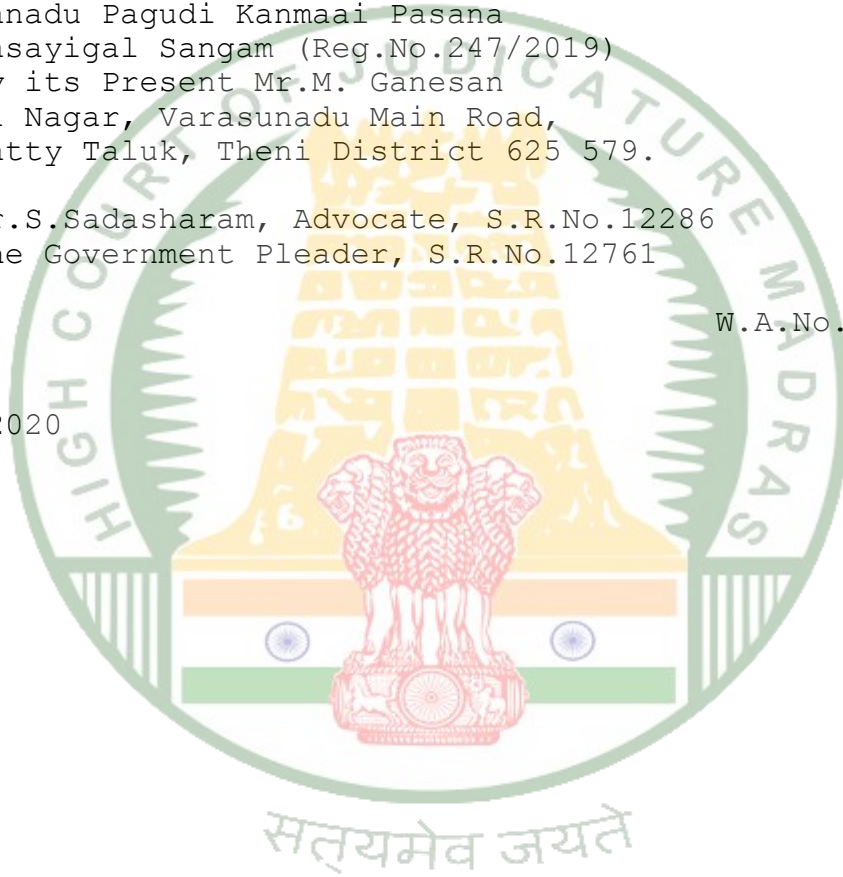
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+1cc to Mr.S.Sadasharam, Advocate, S.R.No.12286
+1cc to the Government Pleader, S.R.No.12761

W.A.No.131 of 2020

AD(CO)
CS/18/02/2020



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