

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.12047 of 2020

and

W.M.P.No.14798 of 2020

1.M.S.J.Jayakumar
2.M.S.J.Jaya
3.M.S.J.Rajendran

...Petitioners

Vs.

1. The Principal Secretary to Government of Tamil Nadu,
Revenue Department, Secretariat,
Chennai - 600 009.
2. The Additional Chief Secretary and Land Administration,
Commissioner, Ezhilagam,
Chepauk, Chennai - 600 005.
3. The District Collector,
Chengalpattu District,
Chengalpattu Collectorate Office,
Chengalpattu.
4. The District Revenue Officer,
Chengalpattu District,
Chengalpattu Collectorate Office,
Chengalpattu.
5. Sub-Collector,
Chengalpattu,
Chengalpattu District.
6. The Tahsildar,
Tiruporur Taluk,
Chengalpattu District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 3 herein to consider and pass orders on the petitioners' representation dated 31.07.2019 for reassigning the lands comprised in S.Nos.41/58 and 41/63 for a total extent of 3.00 acres situated in Karunkuzhipallam Village,

Thiruporur Taluk, Kancheepuram District and grant patta for the said land to the petitioners.

For Petitioners	:	Mr.Durai. Gunasekaran
For Respondents	:	Mr.K.Parameshwaran
		Government Advocate

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondents 1 to 3 to consider the representation made by the petitioners on 31.07.2019 and to reassign the subject property in favour of the petitioners.

2.The case of the petitioners is that the subject property was originally assigned to the father of the petitioners by proceedings dated 13.09.1970. Even after his death, the mother of the petitioners sought for patta and since the same was not considered, a writ petition was filed before this Court in W.P.No.7477 of 2013. This writ petition was dismissed by an order dated 27.03.2013. The relevant portions in the order is extracted hereunder :

"2.The case of the petitioner as given in the affidavit filed in support of this writ petition is that the petitioner's husband Jayaraj served as Havildar in the army and he retired from service on superannuation. He being an ex-serviceman, the Government had assigned the land in their favour free of cost at Karunguzhipallam Village, Chengalpet Taluk in S.No.41/58 and 63. The extent of land assigned was 3.00 acres vide proceedings dated 13.09.1970. Since the date of allotment, the petitioner's husband was in continuous possession and enjoyment of the property and was cultivating the same. He died on 25.04.2012 leaving behind the petitioner and his three children's to inherit his estate. But somehow they did not apply for patta in time. In the year 1970, the second respondent issued an order in favour of the petitioner's husband assigning the land. The petitioner's husband had also paid the tax and other incidental charges to the subject property. The Tahsildar, Chengalpet has also executed the document in favour of the petitioner and the same has also been registered in the Thiruporur Sub-Registry in the year 1971. But patta was not issued in favour of the petitioner's husband. Therefore, after the death of the petitioner's husband, the petitioner along with other legal heirs sought patta in their name, by making an application dated 21.01.2013. But the same has not been considered, even though, the same has

been received by the respondents. Hence, the above writ petition has been filed for the aforesaid prayer.

3. Having regard to the facts of the case and the order of assignment made vide proceedings in D.C.15/79 B.2 dated 13.09.1970 in favour of the petitioner's husband and the petitioner's family has been in continuous possession of the said property, I am inclined to direct the second respondent herein to consider the representation made by the petitioner to the first respondent on 21.01.2013, which has been duly forwarded by the first respondent / the District Collector to the second respondent / Tahsildar and pass orders on merits and in accordance with law, after affording opportunity to the petitioner and others if any, within a period of three months from the date of receipt of a copy of this order."

After this order was passed, the mother of the petitioners was following up with the authorities to get the patta for the subject property.

3. It is seen from the communication dated 28.04.2017, sent by Tahsildar to Sub-Collector, that the subject property was reclassified as 'Kazhuveli Poramboke' by proceedings dated 21.12.2014 by the Special Commissioner for Land Reforms. In view of the same, patta was not granted in favour of the mother of the petitioners.

4. The mother of the petitioners expired and thereafter, the petitioners started following up with the case. Ultimately, a representation was made on 31.07.2019 to the respondents 1 and 2 requesting for reassignment of the subject property in favour of the petitioners. Since it was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

5. Even during the course of the arguments, this Court had put a question to the learned counsel for the petitioners as to how the petitioners will be entitled for reassignment of the subject property when it had already been converted into 'Kazhuveli Poramboke' by proceedings dated 21.12.2014. The learned counsel for the petitioners submitted that neither the petitioners nor the mother of the petitioners were put on notice before such a conversion took place and the petitioners are not even having a copy of the proceedings. The learned counsel further submitted that the respondents should be directed to furnish a copy of the proceedings dated 21.12.2014 to the petitioners so that the petitioners can challenge the same in accordance with law.

6.Mr.K.Parameshwaran, learned Government Advocate, appearing on behalf of the respondents, submitted that the relief claimed by the petitioners is not sustainable. The learned counsel submitted that the petitioners are claiming for reassignment of the subject property without any legal right and therefore, there is no ground to entertain this writ petition and the same is liable to be dismissed.

7.In the considered view of this Court, the relief as claimed by the petitioners cannot be sustained. Unless the petitioners challenge the proceedings of the Special Commissioner for Land Reforms dated 21.12.2014, the petitioners will not have any right of reassignment of the subject property in their favour. According to the petitioners, the conversion of the property had taken place without notice.

8.In view of the above discussion, there shall be a direction to the 6th respondent to furnish a copy of the proceedings in R.T.S.44382/2002 dated 21.12.2014 to the petitioners within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the petitioners will have to work out their right in accordance with law. Unless the subject property is restored to the original position, the claim made by the petitioners cannot be considered.

This writ petition is disposed of by giving liberty to the petitioners to challenge the proceedings through which the subject property was converted into 'Kazhuveli Poramboke'. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

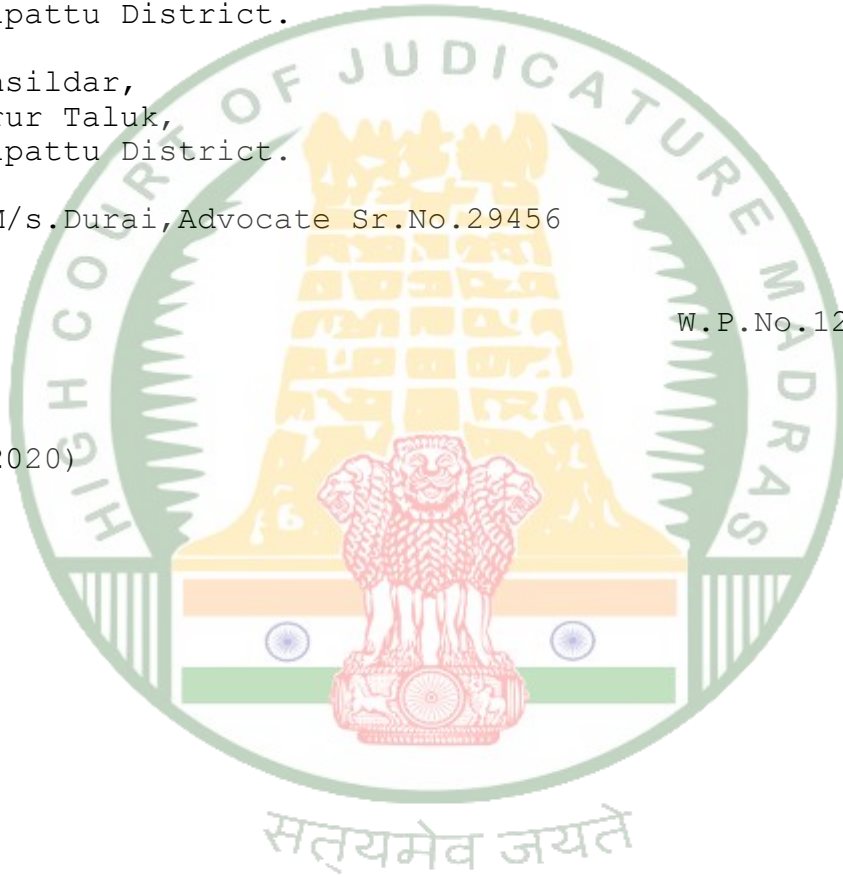
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+1 cc to M/s.Durai,Advocate Sr.No.29456

W.P.No.12047 of 2020

ajs(co)
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