

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.1.2020

Coram :

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No.31381 of 2014 & WMP.No.1 of 2014

1.P.Janaki

2.K.P.Pradeep Kumar

...Petitioners

Vs.

1.The Settlement Officer & District
Revenue Officer, Gudalur Jenman
Land, Udthagamandalam,
The Nilgiris.

2.M/s.Parry Agro Industries Ltd.,
formerly known as CWS (India),
Willingdon Estates Island,
Cochin-682003 having regd.
Office at Parry House, No.43,
Moore Street, Chennai-1.

(R2 impleaded as per order dated 04.3.2015

in MP.No.1 of 2015 by TSSJ)

...Respondents

PETITION under Article 226 of the Constitution of India
praying for the issuance of a Writ of Mandamus directing the
respondent to issue patta to the petitioners for 47 acres of
land comprised in New S.No.1242/1, 2 and 3 and R.S.No.2163 in
Nelliyalam Village, Pandalur Taluk, Nilgiris District within a
reasonable time as may be fixed by this Court.

For Petitioners : Mr.B.Ramamoorthy

For Respondent-1: Mrs.A.Sri Jayanthi, SGP

For Respondent-2: Mr.S.Thankasivan

ORDER

I have heard Mr.B.Ramamoorthy, learned counsel for the
petitioners, Mrs.A.Sri Jayanthi, learned Special Government
Pleader appearing for the first respondent and Mr.S.Thankasivan,
learned counsel appearing for the second respondent.

2. The petitioners seek a direction to the first respondent
to issue patta for 47 acres of land comprised in New

S.No.1242/1, 2 and 3 and R.S. No.2163 in Nelliyalam Village, Pandalur Taluk, Nilgiris District within a reasonable time.

3. The case of the petitioners rests upon the alleged recommendations made by the first respondent to the Commissioner of Land Administration. According to the petitioners, the first respondent ought to have considered the application and granted patta. Instead, he abdicated his powers and referred the matter to the Commissioner vide communication dated 11.5.2014. Therefore, the petitioners seek a direction to the first respondent to consider the petitioners' case and grant patta.

4. The first respondent filed a counter affidavit stating that the Gudalur Janmam Estate - a land tenure was prevailed from the British Era and after Independence in Gudalur Division, that the Janmam land tenure was abolished by the Gudalur Janmam Estate (Abolition and Conversion into Ryotwari) Act (Act 24 of 1969) (for brevity, the Act) with effect from 27.11.1974 and that all the Janmam estate lands held by the erstwhile Janmies (zamindars) and others were taken over by the Government.

5. So far as the petitioners' claim is concerned, the first respondent would state that the subject lands, over which, the petitioners claim patta were taken over by the Government along with other Janmam estate lands. According to the first respondent, the petitioners' claim that their father purchased an extent of 47 acres during the year 1964 in O.S.No.239 and 449, R.S.1242/1, 2 and 3 and 2163 of Nelliyalam village, Pandalur Taluk, Nilgiris District was a false statement and there was no record to support such a stand. It has been further stated that had the petitioners purchased the subject land during 1964, they ought to have applied for ryotwari patta under Section 8 or Section 10 of the Act during 1975 and that too, in proper form as stipulated in Form 4 under the Act. The first respondent would also state that such an application should have been filed within six months from the appointed date and that the petitioners' claim that they were in possession of 47 acres of land was not maintainable.

6. Though such a stand was taken by the first respondent in the counter, ultimately, in the penultimate paragraph of the counter, it has been stated that the first respondent has more than 150 claim petitions pending, that no priority can be granted to the petitioners and that the petitioners' case was to be disposed of as per the directions of this Court in the earlier round of litigation.

7. Earlier, the petitioners approached this Court and filed W.P.No.4110 of 2007 challenging a notice issued by the first respondent dated 29.12.2006. The second respondent was also a party to the said writ petition. The petitioners' contention was that the notice impugned in the said writ petition dated 29.12.2006 was issued only to the second respondent and not to the petitioners and that the petitioners were entitled to be heard in the matter, as the petitioners claimed to be in possession of the land in question. The said writ petition was disposed of by order dated 25.10.2013 without expressing any opinion on the merits of the matter, but by merely directing the first respondent to consider the claim of the petitioners as per the Act. The second respondent herein challenged the said order by filing W.A.No. 2477 of 2013 contending that the second respondent purchased some extent of the lands in 1946 and that the rival claims of the parties had to be agitated only before the civil court and not before the Authorities.

8. The second respondent relied upon the order passed by the Hon'ble Supreme Court in Civil Appeal No.368 of 1977 etc. batch dated 18.8.1999, in which, the second respondent was also a party. It was the contention of the second respondent that the Hon'ble Supreme Court protected the interest of the second respondent against an order passed under Section 9 of the Act and that therefore, the writ petitioners were not entitled to make any objection. The Hon'ble Supreme Court, by order dated 18.8.1999, held that there was no bar for any third party to make any objection against the claim of the second respondent and the Hon'ble Supreme Court had only given liberty to the second respondent to pursue the matter afresh, if any adverse orders were passed against the second respondent under Section 9 or Section 17 of the Act. Thus, the Hon'ble First Bench of this Court held that if the writ petitioners made any rival claim, certainly it should be considered by the Competent Authority and that therefore, the learned Single Judge was right in directing the parties to go before the Competent Authority and make their respective claims by filing supporting documents in their favour.

9. The learned counsel for the petitioners submits that the Competent Authority rejected the claim made by the second respondent for grant of patta by order dated 10.10.2017.

10. It is submitted by the second respondent that as against the said order, an appeal has been preferred to the District Court and an order of interim stay has been granted.

11. Be that as it may, no specific direction can be issued in this writ petition to the Authorities to consider the petitioners' application in a particular fashion. It is for the petitioners to establish before the Authorities that they are entitled to grant of patta under the provisions of the Act.

12. It is stated that there is no application filed by the petitioners.

13. It is for the petitioners to vindicate their stand before the concerned Authority and it is not for this Court to make any observation at this juncture.

14. In the light of the above, the writ petition stands disposed of leaving it open to the Competent Authority to consider the claims of the parties in accordance with law as mentioned in the counter affidavit as expeditiously as possible. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

The Settlement Officer & District Revenue Officer,
Gudalur Jenman Land, Udhamandalam, The Nilgiris.

+1 cc to M/s.B.Ramamoorthy, Advocate Sr.No. 65321

+1 cc to M/s.S.Thangasivan, Advocate Sr.No. 60331

+1 cc to The Government Pleader Sr.No. 66881

AKM/26.02.2020/4P-5C /

सत्यमेव जयते

W.P.No.31381 of 2014
and MP.No.1 of 2014

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