



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S. VAIDYANATHAN**

W.P. (MD)No.8001 of 2019

and

W.M.P. (MD)No.6303 of 2019

WEB COPY

1.V.Jaganathan

2.R.Vijaya Lakshmi

... Petitioners

-vs-

1.The District Collector,

Ramanathapuram District at Ramanathapuram.

2.The Assistant Settlement Officer,

(Land Tax), Madurai, Madurai District.

3.The District Revenue Officer,

Ramanathapuram, Ramanathapuram District.

4.The Revenue Divisional Officer,

Ramanathapuram, Ramanathapuram District.

5.The Tahsildar,

Ramanathapuram, Ramanathapuram District.

6.The Village Administrative Officer,

Devipattinam, Ramanathapuram District.

7.The Village Administrative Officer,

Alamalenthall, Ramanathapuram District.

8.The Assistant Engineer,

Public Works Department (Irrigation Division),

Ramanathapuram, Ramanathapuram District.

9.The President,

Wetland Agriculturist Association,

3/123 A, Main Road, Devipattinam,

Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to issue patta in favour of the petitioners regarding 1 Acre 21½ cents in Survey No.221 of Devipattinam Village, Ramanathapuram District as per the Order passed by the second respondent vide proceedings in S.R.14/ERAMA/70 (26/63) dated 15.07.1985.

For Petitioner

: Mr.S.Xavier Rajini

<https://hcservices.ecourts.gov.in/hcservices/>



For Respondents : Mr.K.P.Krishnadoss
1 to 8 Special Government Pleader
For Respondent 9 : Mr.R.Murugan

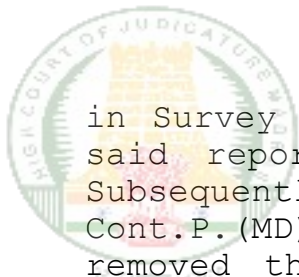
ORDER

This writ petition is filed, seeking issuance of a Writ of Mandamus directing the respondents to issue patta in favour of the petitioners regarding 1 Acre 21½ cents in Survey No.221 of Devipattinam Village, Ramanathapuram District as per the Order passed by the second respondent vide proceedings in S.R.14/ERAMA/70 (20/63) dated 15.07.1985.

2.Heard the learned Counsel appearing for the petitioner, Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the respondents 1 to 8 and Mr.R.Murugan, learned Counsel appearing for the 9th respondent.

3.It is represented by the learned counsel appearing for the petitioners that the first petitioner's great grandfather by name Veeman Pakadai has a son by name Nagan Pakadai who has two sons by name Veeman Pakadai (petitioner's father) and Sonai Muthu Pakadai (who has no issues). Similarly, the brother of the first petitioner's great grandfather by name Udayan Pakadai had one son viz., Velli Pakadi, who has also no issues. Therefore, the petitioner and his brother Kajendra Boopathi are legal heirs of Veeman Pakadai and Udayan Pakadai. The brother of the petitioner viz., Kajendra Boopathi died on 26.09.2017 leaving his wife namely Vijaya Lakshmi (second petitioner herein) and minor son Niranjana Bala. The grandfather of the first petitioner Nagan Pakadai and Velli Pakadai had purchased 1 Acre 72 ½ (86 ½ cents each) situated in Vattakudi Village, Alamalenthall Group, Ramanathapuram District from one Somasundaram Pillai vide sale deed dated 05.07.1944. Thereafter, on 20.11.1980, a patta was issued in favour of the brother of the petitioner's father, namely, Sonai Muthu in respect of the land stands in the name of the said Velli Pakadai in Survey No.405/4 measuring to an extent of 50.63 cents and for remaining extent of 1 Acre and 21 ½ Cents no patta was issued. Therefore, the first petitioner's father had approached the second respondent for issuance of patta and the second respondent, after scrutinising the document submitted before him and after conducting enquiry, vide his order dated 15.07.1985, had directed the then Revenue Tahsildar, Ramanathapuram, Ramanathapuram District, to issue patta in favour of the first petitioner's father by name Veeman and his brother by name Sonai Muthu, in respect of the land measuring to an extent of 1 Acre 21 ½ Cents in S.No.221.

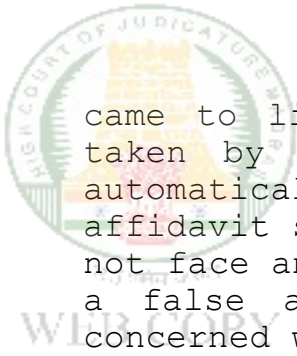
4.It is further submitted that in the Writ Petition filed by the ninth respondent in W.P.(MD)No.13111 of 2017 seeking removal of encroachment in Government Water Body in Survey No.221 of Devipattinam Village, the fifth respondent filed a status report on 09.08.2017 stating that the Tahsildar had removed the encroachment



in Survey Nos.220 and 221 of Devipattinam Village and based on the said report, the Writ Petition was disposed of on 17.08.2017. Subsequently, the ninth respondent had filed a contempt petition in Cont.P.(MD) No.1956 of 2018 stating that the Tahsildar has not removed the encroachments made by some persons after the status report filed by him. It is further submitted by the petitioners that the fifth respondent Tahsildar, without ascertaining the facts that already more than forty persons have been issued with patta in Survey No.221 of Devipattinam Village even before resettlement in 1965 and the second respondent had directed the then Tahsildar to re-classify the Survey No.221 from Kanmoi Poramboke and issue patta in favour of the first petitioner's father Veeman and Sona Muthu, filed a status report before this Court indicating Survey Nos.220 and 221 of Devipattinam Village as "Kanmoi Poramboke". Therefore, the petitioner has come forward with the present Writ Petition seeking issuance of patta in favour of the petitioners in respect of 1 Acre 21½ cents in Survey No.221 of Devipattinam Village, Ramanathapuram District as per the Order passed by the second respondent vide proceedings in S.R.14/ERAMA/70 (20/63) dated 15.07.1985.

5.This Court without going into the merits of the case, directs the fifth respondent to consider the representation of the petitioners' dated 03.01.2019 and pass appropriate orders in accordance with law, after hearing the petitioners and the persons who are likely to be affected. In case of issuance of patta, survey needs to be conducted and the said survey shall be photographed and videographed in the presence of the petitioner and the persons who are likely to be affected and the costs of photograph and Videograph to be borne by the party seeking patta. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. It is made clear that this Court has not decided the rights of the parties in the present Writ Petition. It is open to the respondents to decide the same. The directions given in W.P(MD).No.7746 of 2020 batch, dated 23.09.2020 and W.P.(MD)No.13465 of 2020 dated 13.10.2020 should be followed scrupulously wherever it is applicable. In case any Civil Suit is already pending, there is no need for measuring the land in question, as it is for the Civil Court to decide the matter. After the order of this Court any suit is filed, the officials hands are not tied to carry out the directions mentioned in the aforesaid two orders, as there is a possibility of one or other party to move the Court later and to stall the proceedings before the revenue authorities. Only exception is if an interim order operates against the authorities.

6.If the persons like the present petitioner, who are seeking to survey the land do not disclose the other persons, who are interested, they must file an affidavit that there are no third parties involved in the issue concerned and also there are no <https://hcmvcs.court.gov.in/hcmvcs/>es. In case, at a later point of time if the fact



came to light that there is any interested parties, the decision taken by the authority in favour of the petitioner will stand automatically cancelled. Further, the averments made in the affidavit shall be reflected in their order so that the officer will not face any problem at a later point of time. More over, for filing a false affidavit, if appropriate action is taken, the person concerned will have to face imprisonment rather than fine.

7. With the above directions the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

SRM

To

1. The District Collector,
Ramanathapuram District at Ramanathapuram.
 2. The Assistant Settlement Officer,
(Land Tax), Madurai, Madurai District.
 3. The District Revenue Officer,
Ramanathapuram, Ramanathapuram District.
 4. The Revenue Divisional Officer,
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 8. The Assistant Engineer,
Public Works Department (Irrigation Division),
Ramanathapuram, Ramanathapuram District.
- +1 CC to M/s.GP (SR-26043[F] dated 17/12/2020)

W.P (MD) No. 8001 of 2019

16.12.2020

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