



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P. (MD)No.17380 of 2020

and

W.M.P. (MD)No.14522 of 2020

WEB COPY

1.A.Machchakkalai  
2.M.Vaiyalingam  
3.M.Abbas

... Petitioner

-vs-

1.The Additional Chief Secretary/  
Commissioner of Land Administration,  
Chepauk, Chennai - 600 005.  
  
2.The District Collector - Madurai,  
Office of the District Administration,  
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the respondent in Letter No.F2/2744/2018, dated 28.05.2019, quash the same and consequently direct the respondent to dispose of the Appeal filed by the petitioners herein on 05.02.2018 before the respondent.

For Petitioner : Ms.K.M.Valsala

For Respondents : Mr.M.Murugan  
Government Advocate

### ORDER

This writ petition is filed, seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the respondent in Letter No.F2/2744/2018, dated 28.05.2019, quash the same and consequently direct the respondent to dispose of the Appeal filed by the petitioners herein on 05.02.2018 before the respondent.

2.Heard the learned Counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate, who took notice for the respondents. By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.The learned Counsel appearing for the petitioner would submit that the petitioners had purchased the land measuring to an extent



of 5 acres in S.No.42/2A (Re-Survey No.42/2A1B) situate in Tallakulam District from the legal heirs of the political sufferer Lakshmana Pillai namely Mrs.Krishnammal and Dhanalakshmi on 27.09.2007 vide two sale deeds. On 16.02.2010, since the respondent is said to have passed an order removing the petitioners names from the Town Survey Registers, they have filed a Writ Petition in W.P. (MD)no.13153 of 2012 and the same was disposed of with a direction to the respondents to consider the representation of the petitioners dated 29.08.2012 after hearing all the parties. Thereafter, the petitioners filed a Review Petition in Rev. Aplc.(MD)No.23 of 2013 which was disposed of on 01.08.2014 by setting aside the order of the respondent dated 16.02.2010 and remitted the matter back to the respondent with a direction to conduct fresh enquiry on the representation of the petitioners dated 29.08.2012 and pass appropriate orders on merits and in accordance with law within a period of two months from the date of receipt of the order. Pursuant to the said order, the first respondent had delegated the District Revenue Officer, Madurai vide proceedings dated 30.05.2015 wherein it has been categorically held that the Settlement Officer had directed the Revenue Authorities not to make any changes in the Town Survey Land Register and the Assignment Patta was never intended to be cancelled. However, the Revenue Authorities had cancelled the Assignment Patta and that was set aside vide order passed in Rev.Aplc.(MD) No.23 of 2013, dated 01.08.2014. As the District Revenue Officer, after enquiry, had passed an order on 13.12.2017 stating that the land in question is a "Kanmoi", the petitioners preferred an appeal before the first respondent on 05.02.2018. It is further submitted that pending appeal, the petitioners made another representation on 01.08.2018 seeking an opportunity to prove ownership over the land with original documents. Since the said representation has been negatived by the first respondent vide order dated 28.05.2019, the petitioner has come forward with the present Writ Petition.

4.Mr.M.Murugan, learned Government Advocate appearing for the respondents would submit that since the petitioners are usurping the water body, orders have been passed as the petitioners are not the owners of the water body. However, there is an order in Rev. Apl. (MD) No.23 of 2013 to the effect that opportunity needs to be given. Though strictly speaking, there is no need for hearing the petitioners concerned in view of the earlier order of this Court which has become final, naturally the petitioners will have to be heard before the decision is taken.

5.In view of the above, the order passed by the first respondent dated 28.05.2019 has got to be interfered with and the matter is remitted back to the authority concerned and the authority concerned is directed to give opportunity to the petitioners in the light of the order passed in Rev. Apl. (MD) No.23 of 2013 wherein opportunity was directed to be given. This Court has not decided the issue involved in the Writ Petition. The Writ



Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

SRM

To

1.The Additional Chief Secretary/  
Commissioner of Land Administration,  
Chepauk, Chennai - 600 005.

2.The District Collector - Madurai,  
Office of the District Administration,  
Madurai.

+1 CC to Mrs.Lakshmi Gopinath,Advocate for POLAX LEGAL SOLUTION,  
( SR-24758[F] dated 09/12/2020 )

**W.P (MD) No.17380 of 2020**

**08.12.2020**

**KG (CO)**

**AP (18/12/2020) 3P 4C**