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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 17883 of 2010

and

W.M.P. Nos. 1 and 2 of 2010 and

W.M.P. Nos. 1988 of 2018 and 9626 and 9628 of 2021

1. M.Chandran
2. C.Poongavanam
3. C.Pannerselvam
4. C.Munusamy
5. C.Ravi
6. B.Kasthuri
7. C.Ramesh
8. C.Kumar
9. L.Eswari

... Petitioners

P2 to P9 substituted as Lrs of deceased sole petitioner vide order dated 09.03.2021 made in W.M.P. No. 2585 of 2021 in W.P. No. 17883 of 2010 by SSSRJ)

-vs-

1. The Principal Secretary and Commissioner of Land Administration, Ezhilagam, Chepauk, Chennai 600 005.
2. The District Collector, Tiruvallur District.
3. The Revenue Divisional Office, Ponneri.
4. The Tahsildar, Ponneri.
5. P.Elumalai, President, Padianallur Panchayat.
6. S.Viswanathan, Ex-Vice President, Padianallur Panchayat.



7. Paidanallur Ooratchi Grama Makkal Pothu Nala Sangam,  
Represented by its President,  
Mr.S.Innasi,  
No.4/707A, Sri Venkateswara Complex,  
Mahalakshmi Nagar Service Road,  
Padianallur, Red Hills, Chennai - 600 052. ...Respondents

(R7 impleaded vide order dated 06.01.2021  
made in W.M.P. No. 29402 of 2019 in W.P.  
No. 17883 of 2010 by SSSRJ)

PRAYER : Writ Petition filed under Article 226 of the  
Constitution of India, praying for issuance of Writ of  
Certiorified Mandamus calling for the records of the order of  
the first respondent in Rc.No.K1/17929/2009 dated 08.02.2010 and  
the consequential order of the fourth respondent dated  
03.08.2010 and quash the same and consequentially direct the  
respondents to issue a patta in favour of the petitioners.

For Petitioners:Mrs.A.L.Ganthimathi

For Respondents:Mr.Richardson Wilson  
Counsel for Govt for R1 to R4  
Mr.T.Mohan  
for Ms.S.Vasanthi for R6  
Mr.Haja Nazirudeen  
Senior Advocate  
for Mr.G.Balraj for R7  
R5-died

#### O R D E R

The prayer sought for herein is for a Writ of Certiorified  
Mandamus calling for the records of the order of the first  
respondent in Rc.No.K1/17929/2009 dated 08.02.2010 and the  
consequential order of the fourth respondent dated 03.08.2010  
and quash the same and consequentially direct the respondents to  
issue patta in favour of the petitioners.

2. The very short facts which are required to be noticed for  
the disposal of this Writ Petition are as follows:

(i) The property measuring to an extent of 50 cents in  
Paimash No.188 at Padianallur Village is the subject matter, in  
respect of which, title and possession is claimed by the  
petitioners by relying upon a sale deed dated 20.03.1968 as well  
as 01.06.1968. However, one Elumalai, President and one  
Viswanathan, Vice President of the Padianallur Village  
Panchayat, who are the fifth and sixth respondents in this Writ  
Petition, seems to have claimed the ownership of the subject



land in favour of the Village Panchayat. This scenario probably triggered the first petitioner and another to approach the Civil Court by filing a Suit in O.S. No.245 of 1998 on the file of the District Munsif Court, Ponneri, where the fifth and sixth respondents were arrayed as defendants.

(ii) The prayer sought for in the Suit is for declaration and consequential permanent injunction in respect of the suit property. The said Suit was decreed by judgment and decree of the trial Court dated 26.11.2001, as against which, first appeal was filed in A.S. No. 25 of 2002 before the Sub-Court, Ponneri by the fifth and sixth respondents herein, who stood as appellants in the appeal and the said first appeal also was dismissed by judgment and decree dated 19.02.2003. As against the dismissal of the first appeal, the second appeal was filed before this Court by the fifth and sixth respondents herein, who stood as appellants in S.A. No. 1611 of 2003, the said appeal was pending consideration before this Court till 15.02.2010.

(iii) In the meanwhile, based on the said sale deed, which were Exs.A1 and A2 as marked before the trial Court by the petitioners herein, they were able to get patta from the Assistant Settlement Officer, Tiruvannamalai, which was questioned before the higher authorities of the Revenue Department. Ultimately, the matter had gone to the Land Commissioner of the State Government, who remanded the matter and in the meanwhile, writ proceedings had also been filed by the petitioners, where some directions have been given.

(iv) Ultimately, the issue had gone to the first respondent / Land Commissioner for consideration and who after considering the said issue in detail, where the petitioners as well as fifth and sixth respondents and the Tahsildar, Ponneri Taluk also were heard, has passed a detailed order on 08.02.2010, whereby, the first respondent has given a finding that, the petitioners have failed to prove their title, possession and enjoyment, of the land with supportive documents and therefore, the claims of the petitioners for issuance of patta is to be rejected as devoid of merits. Accordingly, the said request was rejected and the order of the Assistant Settlement Officer, Tiruvannamalai which issued patta in favour of the petitioners dated 26.03.1998 in the first instance and on 17.07.2000 in the second instance were set aside and the land in question were ordered to be retained as Government Poramboke vacant Village site in the revenue records.

3. Aggrieved over the said order passed by the first respondent dated 08.02.2010, the present Writ Petition has been filed with the aforesaid prayer.



4. I have heard Mrs.A.L.Ganthimathi, learned counsel appearing for the petitioners, who has made an extensive arguments and in order to counter the same, Mr.Richardson Wilson, learned counsel for the Government appearing for the first to fourth respondents and Mr.Haja Nazirudeen, learned counsel appearing for the seventh respondent, namely Paidanallur Ooratchi Grama Makkal Pothu Nala Sangam and also the learned counsel who appeared for the sixth respondent made elaborate submissions. It is to be noted that, the fifth respondent one Elumalai, during the pendency of the Writ Petition died. It is also to be noted that, the original petitioner in this Writ Petition one Chandran since died during the pendency of the Writ Petition, the petitioners, i.e., P2 to P9 as legal heirs of the original petitioner Chandran, have been impleaded as party petitioners in this Writ Petition.

5. I have heard the said submissions in detail made by the learned respective counsel appearing for the parties and have perused the materials placed before this Court.

6. One important aspect is to be noted that, this impugned order was passed by the first respondent on 08.02.2010, while he passes the impugned order, the Second Appeal, i.e., S.A. No. 1611 of 2003, as referred to above, was pending consideration before this Court. Exactly, after one week of the impugned order, the Second Appeal was disposed of by this Court on 15.02.2010. Therefore, what are all the findings given by this Court in the said Second Appeal, while dismissing the Second Appeal filed by the fifth and sixth respondents, could not be considered by the first respondent while passing the impugned order, as he did not have such an occasion to consider.

7. In view of the said factors, this Court, after having perused the entirety of the orders passed by this Court in the Second Appeal, as referred to above, dated 15.02.2010, is of the view that, there are some findings given by this Court in the said Second Appeal, which are diagnostically contra to or opposite to, the findings in respect of some documents or happenings, in the impugned order of the first respondent.

8. Illustratively, if we take up the findings given by this Court in the Second Appeal, on the Exs.A1 and A2 which are the two sale deeds, under which, the petitioners claim title and possession over the property as well as Ex.A3, which is a certified copy of the Survey Registration Extract of Padinallur Village issued by the District Collector. The findings in the Second Appeal of this Court is that, those documents were filed and proved before the trial Court, based on which, the possession of the plaintiffs have been proved.

9. Whereas, in the impugned order, the first respondent has given the finding to state that, as on date, there was no record that, such Natham Accounts were handed over by the Natham



Settlement Scheme Tahsildars to the Collectorate, Tiruvallur. While so, the extract of Natham land register issued by the Collectorate raises serious doubts as to the veracity of the said document and therefore, it cannot be relied upon. In this regard, the Collector has to take necessary action against the person responsible for issuance of bogus Natham settlement extract.

10. If such a contra findings are given in the two orders, one is by this Court and another by the first respondent, i.e., impugned order, this Court feels that, the findings given by this Court in the Second Appeal, as referred to above, can very well be placed before the first respondent for their consideration and after taking into account of the said findings and after hearing the parties concerned, if the first respondent passes any order, depending upon the outcome of such order, the parties can workout their remedy.

11. However, at the present stage, since the impugned order is dated 08.02.2010 and after one week of the same only, the findings in the Second Appeal had been given by this Court on 15.02.2010, where the case of the petitioners have been accepted and accordingly, the Second Appeal filed by the fifth and sixth respondents has been dismissed, it becomes imperative on the part of the first respondent to look into these findings. Otherwise, if we allow the impugned order to sustain at this stage, the findings given by this Court based on the documents and the evidence let in before the trial Court, would become otiose and that kind of ineffectiveness cannot be attached with the findings given by this Court.

12. In that view of the matter, this Court feels that, the impugned order, only for the said reason alone, can be set aside and remitted back the matter to the first respondent for reconsideration and while reconsidering the same, it is open to the parties to put forth their case including the findings of this Court dated 15.02.2010 made in S.A. No. 1611 of 2003 as referred to above in aid of the petitioners or otherwise and only in that case, the contesting respondents, i.e., seventh respondent as well as the Government side would be in a position to establish their case contra to the findings given by this Court in the Second Appeal, if they are advised to do so and after considering the case and counter case to be projected by both sides before the first respondent, if he ultimately comes to a conclusion and pass final orders that would be binding on both sides and still either of the party feel aggrieved, they can very well agitate the issue in the manner known to law.

13. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following orders:

"(i) That the impugned order is quashed and the matter is remitted back to the first respondent



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for reconsideration. While reconsidering the matter, fair opportunity of being heard shall be given to both sides, i.e., petitioners herein as well as all the respondents herein including all Government authorities enabling them to produce the relevant records and documents available with them to substantiate their respective cases. After giving such fair opportunity of being heard to both sides, decision shall be taken and final order shall be passed by the first respondent on merits and in accordance with law and the aforesaid needful shall be undertaken by the first respondent within a period of twelve weeks from the date of receipt of a copy of this order.

(ii) It is made clear that, till such decision is taken and final order is passed by the first respondent, the status quo as on today, insofar as the disputed property is concerned shall be maintained. It is further made clear that, no precipitate action shall be taken by either parties in respect of the property in question in the meanwhile, as that would be viewed seriously.

(iii) It is also made clear that, the status quo as on today means, what has been done in the disputed property till today shall be maintained, no further activities shall be undertaken by either party."

14. With these observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

vji  
To

1. The Principal Secretary and Commissioner of Land Administration, Ezhilagam, Chepauk, Chennai 600 005.



2. The District Collector,  
Tiruvallur District.

3. The Revenue Divisional Office,  
Ponneri.

4. The Tahsildar,  
Ponneri.

5. P.Elumalai,  
President,  
Padianallur Panchayat.

6. S.Viswanathan,  
Ex-Vice President,  
Padianallur Panchayat.

7. S.Innasi,  
The President,  
Paidanallur Ooratchi Grama Makkal Pothu Nala Sangam,  
No.4/707A, Sri Venkateswara Complex,  
Mahalakshmi Nagar Service Road,  
Padianallur, Red Hills,  
Chennai - 600 052.

+2 Ccs to M/s.A.L. Gandhimathi, Advocate sr 33095, 33596

+1 CC to Mr.P. Haribabu, Advocate sr 33123.

+1 CC to The Government Pleader sr 33280.

W.P. No. 17883 of 2010  
and  
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and W.M.P. Nos. 1988 of 2018  
and 9626 and 9628 of 2021

GSM(CO)  
SP(02/08/2021)