



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.10.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYANW.P.No.11252 of 2021andW.M.P. No.11911 of 2021

Mr. Gurjala Jayachandra Naidu,
S/o. Veeraswamy Naidu (Late),
No. 16-7-14, M.D.H. Begum street,
Poornandapet, Vijayawada-520003,
Krishna District, Andhra Pradesh
Rep. by his Registered General Power of Attorney Agent
Mr. Potla Malathi Rao,
S/o. Dasaiah (Late),
H.No.1-8-78. Jubleepura,
Khammam-507 001.
Telangana State.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by Principal Secretary,
Revenue and Land Administration,
Secretariat, Chennai-600 009.
2. The District Collector and Magistrate,
Collectorate, Chennai-600001.
3. The District Revenue Officer,
Land Administration, Collectorate,
Chennai-600001.



4. The Tahsildar,
Taluk Office, Sholinganallur,
Chennai District.

5. The Conservator of Forests,
Chennai District, Tamil Nadu.

6. The Assistant Conservator of Forests,
Palli Karnai, Sholinga Nallur Taluk,
Chennai District, Tamil Nadu.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus or any other appropriate writ order of direction in the nature of such writ directing the respondents 2,3,4,5 and 6 to withhold the illegal and unauthorized construction activity of a boundary wall in respect of the Petitioner's Decreed Peaceful Possessive Land admeasuring Ac-3053.00 [ie.Ac-1285-Non Marshy Land and remaining Marshy Land self style Declaration] in Sy.No.'s.657 & 658, and all other bifurcated Survey Nos. ie.658/1A, 657/4A, 657/4C and 658 situated at Pallikarnai Village, Sholinga Nallur Taluk, Previously Kanchipuram District, Presently Chennai District, Tamil Nadu State by considering the representation dated 15.03.2021 and pass orders accordingly.



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W.P.No.11252 of 2021

For Petitioner : Mr.S. Mazhaimenipandiyam

For Respondents 1 -4 : Mr.V. Veluchamy
(Government Advocate)

For Respondents 5 & 6 : No Appearance

ORDER

The relief sought for in this Writ Petition is for a direction to the respondents 2,3,4,5 and 6 to withhold the illegal and unauthorized construction activity of a boundary wall in respect of the Petitioner's Decreed Peaceful Possessive Land admeasuring Ac-3053.00 [ie.Ac-1285-Non Marshy Land and remaining Marshy Land self style Declaration] in Sy.No.'s.657 & 658, and all other bifurcated Survey Nos. ie.658/1A, 657/4A, 657/4C and 658 situated at Pallikarnai Village, Sholinga Nallur Taluk, Previously Kanchipuram District, Presently Chennai District, Tamil Nadu State by considering the representation dated 15.03.2021 and pass orders accordingly.

2. The learned counsel for the petitioner would submit that the petitioner has been appointed as Lawful Attorney Agent to the Principal



Mr. Gurjala Jayachandra Naidu, S/o Veeraswamy Naidu (Late), resident of Vijayawada, Krishna District, Andhra Pradesh vide Registered GPA No.6/2017 dated 17.01.2017 on the file of the Joint Sub-Registrar, Gunadala, Krishna District, Andhra Pradesh in respect of movable and immovable properties having been devolved to the said principal from his predecessors in pursuance to C.S.No.213 of 1898 which was decreed on 02.02.1900 and E.A.51/1910, dated 19.08.1915, E.P.4/1908, dated 09.09.1910 in C.S.No.91/1902, dated 21.04.1910 on the file of this Hon'ble Court. The petitioner's Principal was declared absolute legal heir by a decree and Judgment dated 01.05.2008 in O.S.No.18 of 2008 on the file of Hon'ble Senior Civil Judge, Puttur, Chittoor District, Andhra Pradesh and as such the Principal was in succession to the all the inherited ancestral properties. The said inherited successive movable and immovable properties were in peaceful possession and enjoyment under the control of the said Principal and where as Khisti Receipts i.e., the levied taxes in respect of the devolved scheduled properties were being paid to till date without any default.

3. It has been further submitted by the learned counsel for the



petitioner that the devolved movable and immovable properties belongs to Karvetinagar Estates, Devalampeta Estate, Chettinadu Estates, etc. which were spread across the states of Tamil Nadu, Andhra Pradesh and Telangana earlier known as the composite state of "The Madras Presidency" under the regime of East India Company & British Government. The Estates were transferred from Andhra Pradesh (Presently AP & Telangana state) to Madras vide Part R.C.No. 308/68, dated 23.08.1968 and R.C.No. B8664/68 dated 15.06.1968. The said properties were received by the Madras Government vide File No.167328 in G.O.Ms.No.1834 (Revenue) department dated 21.09.1968. The Lands in Estates were taken over under the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948.

4. The learned counsel for the petitioner would further submit that the total inherited ancestral properties were operated the then under one document by coding the head of the Revenue Village No. 174, Gopalapuram Village, Narayanavanam, Puttur Sub-District of North Arcot District. The Tamil Nadu Government issued G.O.Ms.No.1300 dated 30.04.1971 Revenue Department to grant Patta to persons in continuous possession and



enjoyment in pursuance to G.O.Ms.No.2502 (Revenue) dated 08.07.1958

Tamil Nadu Act, XXVI of 1948. Also the subsequent G.O.Ms.No.1312 (Revenue) dated 26.07.1967 was issued to Grant Patta to the Land holders in possession. While being so, the deceased father of the principal named Sri. Veeraswamy Nai (late) has applied for the grant of Pattas in respect of the devolved properties in succession and possession on 11.04.1985 vide file No. 93016 and 31.03.1986 vide file No. 55070 in pursuance to the supra GO's to the respective the then authorities.

5. It has been further submitted that the principal has been in continuous, peaceful possession and enjoyment of the said devolved properties and has been paying the levied taxes from time to time to the government particularly in respect of all the immovable properties and obtaining the receipts to that effect regularly.

6. It has been further submitted by the learned counsel for the petitioner that the petitioner herein has represented before the respondents 2 and 4 herein for the issuance of Adangal, 1-B, sethuvar, confirmation and



computerized patta in respect of the agriculture land ad-measuring AC 131.

550 in survey Nos. 658/1A, 657/4A, 657/4C and 658 situated at Pallikaranai Village No. 119, Solinganallur Taluk, the then Kancheepuram District and presently Chennai District. In spite of repeated representations, the respondents 2 & 4 have not complied and resolved the grievance of the petitioner due to which the illegal encroachers are attempting to grab the peaceful possessive lands of the principal and in this regard, the petitioner has filed W.P.No.11143 of 2017 before this Court and this Court by its order dated 28.04.2017 directed the respondents 2 to 4 to consider the petitioner's representations dated 10.02.2017, 25.03.2017 and 07.04.2017 to pass orders on merits and in accordance with law, with in a period of 12 weeks from the date of the receipt of a copy of this order.

7. The learned counsel for the petitioner would further submit that the respondents 5 & 6 are progressing with the illegal and unauthorized construction activity i.e. the boundary wall across the Petitioners Land i.e., Open Place to an extent of Ac-3053.00 (Ac-1285-Non Marshy Land and remaining Marshy Land self style Declaration) in S.Nos. 657 & 658, and all



other bifurcated S.Nos.658/1A, 657/4A, 657/4C, etc. situated at Pallikarnai Village, Sholinga Nallur Taluk, Previously Kanchipuram District, Presently Chennai District, Tamil Nadu State without issuing any Notice to the absolute Property Decreed Owners against the Principles of Natural Justice and in gross violation of Articles 14 & 300A leading the principal to an irreparable loss.

8. It has been further submitted that the petitioner has represented before the respondents 2 to 6 dated 15.03.2021 to withhold the illegal and unauthorized construction activity immediately but in vain. It is pertinent to note that it is a non marshy land having been used for multiple establishments by illegally encroaching the decreed Petitioner's peaceful possessive land and further it is attempted to grab the remaining part and parcel of land due to which the petitioner's Principal may be put to an irreparable loss. Hence, having no alternative and efficacious remedy, the petitioner is constrained to file this Writ Petition.

9. The learned Government Advocate for the respondents on



instruction would submit that the respondents 5 and 6 are unilaterally and high handedly progressing with the illegal and unauthorized construction activity (i.e. the boundary wall across the petitioner's land i.e. open place to an extent of Ac 3053.00 (i.e. Ac-1285-Non-Marshy land and remaining marshy land self style declaration) in Survey Numbers 657 and 658 and all other bifurcated survey numbers (i.e. 658/1A, 657/4A, 657/4C and 658) situated at Pallikaranai Village, Sholinganallur Taluk, previously Kancheepuram District, presently Chennai District, Tamil Nadu, is denied as false and the petitioner is put to strict proof of the same.

10. It has been further submitted that the survey numbers of the subject property are registered in the Revenue Records as follows:

<i>Village</i>	<i>Pallikaranai</i>	<i>Pallikaranai</i>	<i>Pallikaranai</i>
Survey Number	658/1A	657/4A	657/4C
Classification	Govt. Punjai Dry	Govt. Punjai Dry	Govt. Punjai Dry
Extent in Hec Ares Sq mts	87 40 00.0	04 89 50.0	10 90 50.0
Adangal	Manavari Tharisu	Kazhuveli	Manavari Tharisu
Remarks	About 200 encroachments	-	-

Though the petitioner claims that he has been paying all the dues, the details



as to whether the said land in S.Nos. 658/1A, 657/4A and 657/4C was assessed to Urban Land Tax and as to whether the ULT is paid by the petitioner regularly. Moreover, though the petitioner claims that the said property has been in peaceful possession and enjoyment of the said devolved properties, the said land remains vacant on ground. The petitioner is put to strict proof of the same.

11. It has been further submitted that only the computerized Land record in respect of the aforesaid properties is available for the aforesaid survey numbers. Moreover, the petitioner is claiming patta for an extent of 131.550 Hectares.

12. The learned Government Advocate would further submit that the aforesaid lands in S.Nos. 658/1A (34.84 Hectares), 657/1A (80.91) and 657/4A (4.8950) mentioned in the present Writ Petition are classified as Sarkar Poromboke" in the Revenue Records.

13. It has been further submitted that the earlier Writ Petition



No.11143 2017 filed by the petitioner herein was disposed by this Hon'ble Court by its order dated 28.04.2017 observing as follows:

"Having regard to the submissions made by the learned counsel on either side and also taking into consideration the limited prayer sought for by the petitioner, without expressing any opinion with regard to the merits of the case, I direct the respondents 2 to 4 to consider the petitioner's representations dated 10.02.2017. 25.03.2017 and 07.04.2017 and pass orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. With this observation, the writ petition is disposed of. No costs".

However, as the said lands stand classified as Government Punjai, Dry and Kazhuveli in the Revenue records, the request of the petitioner could not be considered favourably. Further, the subject land is marshy land and the same is classified as marshy lands by the government Gazette No.6 dated 01.07.2013 (Declared under section 26 of Tamil Nadu Forest Act) as per the details given below:



Village	Survey Number	Extent declared as Marshy lands Hec.Ares Sq metres
Pallikaranai	658/1A	34 84 00.0
Pallikaranai	657/4A	04 89 50.0
Pallikaranai	657/4C	10 90 50.0

In view of the above, the Forest Department is making the construction prevent the land from further encroachments. Hence, the prayer of the writ petitioner deserves no consideration and as this Writ petition is also devoid of merits, and liable to be dismissed.

14. The learned Government Advocate has submitted on behalf of the respondents 5 & 6 that Pallikaranai Marsh is one of the natural wetlands of the Chennai city. It is locally known by generic Tamil name 'kazhuveli' which means a marsh or water logged area. The marsh is bound on the East by Old Mahabalipuram Road, on the West by Tambaram Velachery road, on the North Velachery village and by Medavakkam Karapakkam road on the South. It is located in Pallikaranai, Sholinganallur, Thuraipakkam, Perungudi and Perumpakkam Villages, Pallikaranai is one of the 94 wetlands identified under National Wetland Conservation and Management Programme (NWCMP) of the Government of India.

15. It has been further submitted that the uniquely heterogeneous



hydrology and ecology of the Pallikaranai Marsh makes it one of the most diverse natural habitats of the country. It supports 388 species of flora and fauna including 165 species of birds, 10 species of mammals, 21 species of reptiles, 10 species of amphibians, 50 species of fishes, 9 species of molluscus, 5 species of crustaceans, and 14 species of butterflies and about 114 species of plants including 29 species of grass. Various habitat types found in Pallikaranai Marsh include, open water pockets, islands and mounds, shallow waters and mud flats, emergent sedges, reeds and grassy bank areas, and flooded live and dead timber.

16.The learned Government Advocate would further submit that Conservation Authority of Pallikaranai Marsh Land was formed as per G.O. (Ms) No. 103 E & F (FR-V) dated 31.03.2012 under society Act and the same was registered under Tamil Nadu Societies Registration Act, 1975 with the following objectives:

a) To function as the apex technical body for the Marsh lands in Jurisdiction of Chennai, Kancheepuram and Thiruvallur Revenue Districts.

b) To develop and maintain the Pallikaranai Marsh lands in a self-sustaining manner by receiving and utilizing the funds



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from Central / State Government and any other Government Undertakings, Private Industries and Private Individuals for the development and conservation of Pallikaranai Marsh Lands and other adjacent Marsh Lands to be declared in future.

c) To create understanding and awareness about the importance of the Wetland conservation and its unique floral and faunal diversity to the students and common public in and around Pallikaranai Marsh Lands through education and interpretation programme.

d) To plant and propagate suitable wetland or Mangrove species in Pallikaranai Marsh Lands and other Marsh Lands within the jurisdiction of Chennai Circle wherever possible.

e) To develop an integrated approach in the Conservation of these wetlands combining the indigenous knowledge of local people / NGOS / Authorities etc., and scientific in forth from the experts.

f) To undertake research on various aspects like flora and fauna and water contamination etc., of Pallikararani Marsh Lands

17. It has been further submitted that the Pallikaranai Marsh provides many eco-system services as enlisted below:

a) A Good habitat for fish, avian fauna and several other animals and plan species.

b) It mitigates flood and effect of cyclone and tidal waves.

c) It has a recreational, educational and research value.

d) It helps in water retention and recharge, improving the ground water level.



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- e) It helps in carbon sequestration.
- f) It acts as a buffer against natural disaster fueled by climate change.

18. The learned Government Advocate would further submit that in order to protect this Marsh Land, it was decided to declare Pallikaranai swamp area as Reserve Forests zone to prevent Urban Development in the sensitive eco-system. An area of 694.88.5 Hectare is under the control of the Forest Department which were handed over to forest department by Revenue department and Chennai Corporation as per the details given below:

<i>Sl.No</i>	<i>G.O.Nos. & Date</i>	<i>Area in Ha.</i>	<i>Received from</i>
1	G.O.Ms.No.52 E & F. (FR-14) Dept. dt: 09.04.07	317.00.0	Revenue Dept.
2	Kancheepuram District Gazette No.6 Dated: 01.07.13	131.55.0	Revenue Dept.
3	G.o.Ms.No.147 Revenue (LD IV) Department dated 02.05.14	75.93.0	Revenue Dept.
4	G.O.Ms.No.127 Municipal Administration & water supply (Mc-1) department dated 24.12.12	170.40.5	Chennai Corpn.

19. It has been further submitted that the Survey No. 658 /1A (34.84.0 ha), 657/1A (80.91.0 ha) 657/4A (04.89.50 ha) and 657/4C



(10.90.5 ha) totally 131.55.0 ha of Pallikarani Village of Sholinganallur

Taluk of Kancheepuram District were notified as Reserved land under section 26 of the Tamil Nadu Forest Act, 1882 and published in the Kancheepuram District Gazette No. 6 dated 01.07.2013. Further, the following various activities are carried out in the Pallikaranai Marshland:

1. Removal of debris, dredging and de-silting
2. Removal of Encroachment
3. Forming bund and Consolidation and Strengthening the bund
Vegetation
4. Phyto Remediation Measures
5. Removal of alien invasive species (Eicornia & typha grass)
6. Survey and Demarcation
7. Construction of Protection barrier
8. Entrance arch and Gate
9. Engaging anti-poaching watchers
10. Conducting awareness camp and NGO's participation
11. Publicity materials and equipments
12. Providing signage boards, sculpture
13. Training and capacity building for staff.



20.The learned Government Advocate would further submit that one of the measures undertaken by the respondents is the construction of compound wall in the Pallikaranai Marsh land with an intention to protect the marsh land from any encroachment, illegal constructions, protection of existing fauna and flora of this marsh land and etc., The compound wall acts a barrier and to conserve the biodiversity of the Pallikaranai Marsh Land and the ecosystem of the marsh land effectively.

21. It has been further submitted that the total boundary of the Pallikaranai marsh land is to the length of 21270 Mtr. and Permanent concrete Compound wall was constructed by the Forest Department to the length of 3556 Mtr. The Compound wall constructed by the private patta owners on the line between Marsh and Private Patta Land to the length of 7752 Mtr. The balance length is to be fenced is 9962 Mtr. The area between the Corporation Dumping Yard (survey no.657/1B1 & Forest Department allotted land survey no.657/1A) is always slushy and waterlogged throughout the year. Hence, in this area, the work of Construction of Compound wall / Fence could not be carried out and this length has not



added to the total length of the boundary of the Pallikaranal Marsh Land.

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22. The learned Government Advocate would further submit that this Hon'ble Court in Crl.O.P. No.4413 of 2013 has passed the following interim orders on 18.11.2016:

"5. It is brought to the notice of this court that clandestinely and systematically marshlands in Pallikaranai Village comprised in S.No. 657 /3E (0.405); S.No.657/3C, 3D, 3F to 3K (3.53.0), S.No.657/3A3 (133.00), S.No.453/2C (26.06.0), S.No.432/1 (56.55.0), S.No.429/2 (26.21.5), S.No.433/1A to 1H and S.No.433/2A to 2F (34.28.5), S.No.444/2 (0.39), S.No.434/3 (6.87.0), S.No.430 (16.40 5), S.No.431 (13.20), S.No.657/183 (48.02.5), S.No.657/3A2 (122.38.5), S.No.658/1A (34.84.0), S.No.657/1A (80.91.0), S.No.657/4A (4.89.5), 657/4C (10.90.5, 602/7 (50.96) and S.No.534/4 are being alienated illegally, fraudulently and by unknown persons /land grabbers with the help of influential officials, men with muscle and money power by clubbing parts of marshlands with some other properties which are located in various parts of Tamil Nadu.

10.(a) The newly impleaded Inspector of General of



Registration, Chennai Zone, Rajaji Salai, Chennai shall direct all the Registrars in Tamil Nadu forthwith not to register any document relating to Pallikarana to Pallikaranai Marsh lands comprises in S.No. 657/3E (0.405); S.No.657/3C 3D, 3F to 3K (3.53.0), S.No.657/3A3 (133.00), S.No.453/2C (26.06.0) S.No.432/1 (56.55.0), S.No.429/2 (26.21.5), S.No.433/1A to 1H and S.No.433/2A to 2F (34.28.5), S.No.444/2 (0.39), S.No.434/3 (6.87 S.No.430 (16.49.5), S.No.431 (13.20), S.No.657/1B3 (48.02 S.No.657/3A2 (122.38.5), S.No.658/1A (34.84.0), S.No.657/1A (80.91.0) S.No.657/4A (4.89.5), 657/4C (10.90.5, 602/7 (50.96) and S.No.534/4 are etc., either separately or jointly along with any other properties."

23. It has been further submitted that the S.No. 658/ 1A (34.84.0 ha), S.No. 657/1A (80.91.0 ha), S.NO. 657/4A (04.89.5 ha) and S.No. 657/ 4C (10.90.5 ha) mentioned in the prent writ petition have also been included in the above said penultimate para. Moreover, the areas of these survey numbers are now under the control of the Tamil Nadu Forest Department, as these areas were handed over by the Revenue Department and notified under section 26 of the Tamil Nadu Forest Act, 1882.



24. The learned Government Advocate further submitted that the Hon'ble Supreme Court of India in W.P.(c) No.202 of 1995 had ordered that the term "forest land" occurring in section 2 of the Forest Conservation Act, 1980 will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of ownership. In this present case, all the above said survey numbers have been notified as Reserved land under section 26 of the Tamil Nadu Forest Act, 1882 and hence it should be construed as "Forests" as per directions of the Hon'ble Apex Court of India. Hence, the compound wall was constructed in the Pallikaranai Marsh Lands by the Tamilnadu Forest Department in the interest of conservation and protection of Pallikaranai Marsh land ecosystem which contains a huge biodiversity of the animals and plants apart from prevention of encroachment of this Marsh land by the invaders. Therefore, the writ petitioner does not have any right, title or interest over the said survey numbers covered in the Pallikaranai Marsh land and he is attempting to occupy the marsh land by suppressing the above material facts. Hence, the petitioner does not have any locus standi to claim any interest in respect of the S.Nos.658/1A, 657/1A, 657/4A and 657/4C of Pallikaranai Village



and these survey numbers are already covered in Crl. O.P.No.4413 of 2013 which is pending before this Hon'ble Court as on date.

25. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on records.

26. Having considered the facts and circumstances of the case and submissions made by the learned counsel on either side, it is seen that the petitioner claims the said property in question relying upon the Judgment and Decree dated 05.05.1908 in C.S. No.91 of 1902, dated.29.09.1908 in C.S. No.213 of 1898, dated.09.09.1910 in E.P. No.4 of 1908 and dated 03.10.1917 in C.S. No.213 of 1898 passed by this Court and dated 01.05.2008 in O.S. No.18 of 2008 passed by the Senior Civil Judge, Puthur, A.P. State. However, the respondents are relying upon the orders of this Court in Crl. O.P. No.4413 of 2013. Under such circumstances, as the petitioner has approached the authorities concerned having made representation dated 15.03.2021 and neither any action nor any reply on his



representation so far, this Court, without expressing any opinion with regard to the merits of the case and title of the writ petitioner, directs the respondents to consider his representation dated 15.03.2021 and pass elaborate speaking orders within a period of six months from the date of receipt of copy of this order in accordance with law after verifying the entire documents relied by the petitioner herein and the respondents records.

27. With this observation, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any.

06.10.2021

Lbm

Index : Yes/No

Internet : Yes/No

Speaking /Non-Speaking Order



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To:

1. The Government of Tamil Nadu,
Rep. by Principal Secretary,
Revenue and Land Administration,
Secretariat, Chennai-600 009.
2. The District Collector and Magistrate,
Collectorate, Chennai-600001.
3. The District Revenue Officer,
Land Administration, Collectorate,
Chennai-600001.
4. The Tahsildar,
Taluk Office, Sholinganallur,
Chennai District.
5. The Conservator of Forests,
Chennai District, Tamil Nadu.
6. The Assistant Conservator of Forests,
Palli Karnai, Sholinga Nallur Taluk,
Chennai District, Tamil Nadu.

V.BHAVANI SUBBAROYAN, J.,



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