



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.15927 OF 2019

AND

W.M.P.NO.15731 TO 15733 OF 2019

Periyannan

...Petitioner

Vs.

1. The State represented by
Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Secretariat,
Chennai - 600 009.
2. The District Collector,
Salem District,
Salem.
3. The Revenue Divisional Officer,
Attur,
Salem District.
4. The Tahsildar,
Attur Taluk,
Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for records of the impugned proceedings in Na.Ka.No.2624/2004/AA1 dated 11.12.2018 passed by the 3rd respondent and quash the same and consequently direct the 4th respondent to issue patta to in favour of the Adidraavidar people who were members of the S.1368, Unathur Land Colonization Society for Harijans which was wound up by the Deputy Registrar of Co-operative Society, Attur with respect to the land comprising in S.Nos.1/2A, 2, 3, 4/2B, 5/1, 6/1, 7/2, 8/2A, 149, 335/2, 150/2, 151 & 333 measuring 121.80 Acres (49.30.0 Hectare) situated at Unathur Village, Attur Taluk, Salem District.



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For Petitioner : Mr.M.Rajendiran

For Respondents : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This Writ Petition has been filed for a Certiorarified Mandamus to quash the proceedings in Na.Ka.No.2624/2004/AA1 dated 11.12.2018 passed by the third Respondent and further direct to issue the patta in favour of Adi Dravidar people who were members of the S.1368, Unathur Land Colonization Society for Harijans which was wound up by the Deputy Register of Co-operative Society, Attur with respect to the land comprising in S.Nos.1/2A, 2, 3, 4/2B, 5/1, 6/1, 7/2, 8/2A, 149, 335/2, 150/2, 151 & 333 to the extent of 121.80 Acres (49.30.0 Hectare) situated at Unathur Village, Attur Taluk, Salem District.

2.The case of the petitioner is that in the year 1962, the Government had formed a Land Colonization Society for Harijans at Unathur Village vide G.O.Ms.No.3240 dated 20.09.1962 issued by the Home Department to the welfare of Scheduled Caste people for their survival.

3.The petitioner submits that Adi Dravidar people 22 persons including his father viz., Arumugam who were the members of S.1368 Unathur Land Colonization Society and the 22 persons including his father Arugumam were all members of the society and the society has been registered under the Co-operative Societies Act.

4.According to the petitioner, the purpose of the said society was to extend the help to the Scheduled Caste peoples by assigning land to them for cultivation in order to uplift their social status and survival in the society.

5.The petitioner further submits that after formation of the above said society, 22 persons including his father got allotment of 121.80 acres in (49.3.0 hectares) vide G.O.Ms.No.3240 dated 20.09.1962 and as per the said G.O., each members got allotment of 5 acres of land and based on the above G.O., the joint patta No.266 had been issued in the name of the Deputy Registrar of Co-operative Society for the entire 121.80 acres and thereby the possession was given to 22 persons, who were members of S.1368, Unathur Land Colonization Society at Unathur.

6.According to the petitioner, his father and other allottees had been leveling the land which was allotted by the



Land Colonization Society, the members / allottees being a poor down trodden people, some of them had given the said land to their neighbours for the purpose of cultivation alone for time being, however, the allottees had clearly informed to their neighbours agriculturists, the land would be returned back as and when they insisted for cultivation on their own.

7.The petitioner submits that on 08.04.1988, S.1368, Unathur Land Colonization Society had been wound up by the Deputy Registrar of Co-operative Societies Attur under the Tamil Nadu Co-operative Societies Act, 53 Sub Section 85 (2) of the Tamil Nadu Co-operative Societies Act 1961.

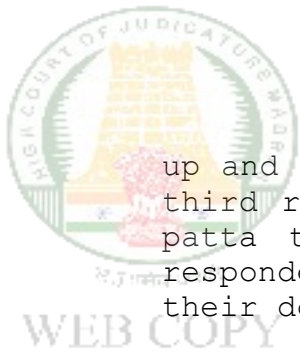
8.The petitioner further submits that the Patta No.266 stood in the name of the Deputy Registrar of Co-operative Societies had been surrendered to the fourth respondent vide proceedings in Na.Ka.No.21606/89 dated 31.07.1989 after winding up of the said Society, the above said lands were cultivated by the member/allottees along with other than the allottees, who got the land only by oral arrangement from the allottees.

9.According to the petitioner, the fourth respondent had issued patta in favour of the other community people vide proceedings Mu.Mu.No.17484/94/A5 dated 13.02.2002, the patta issued in favour of the other community people was legally unsustainable and against the Government policy in granting the land to Adi Dravida people.

10.The petitioner submits that some of the allottees were expired and the legal heirs of the allottees/ Scheduled Caste people had conducted agitation and made repeated representation to the second respondent on several occasions, finally, the third respondent has cancelled the patta vide proceedings in Na.Ka.No.2624/2004 (A3) dated 21.05.2004 due to the reason the other community people obtained patta fraudulently.

11.The petitioner further submits that after cancellation of patta vide proceedings in Na.Ka.No.2624/2004 (A3) dated 21.05.2004, the other community people who cultivated the lands had been filed the writ petitions in W.P.No.8432 of 2006 and batch before this Court by giving false information to the Court stating that they were in the possession for more than 12 years and stated that all of them were eligible to obtain patta, this Court had disposed the writ petition and directed the third respondent to consider and pass the orders on merit.

12.According to the petitioner, the third respondent issued a notice in Na.Ka.No.264/2004/AA1 dated 11.12.2011 stated that since S.1368, Unathur Land Colonization Society had been wound



up and some of the occupants filed a case before this Court, the third respondent further stated that the persons who sought for patta to appear on 24.02.2011 at 3.00 P.M. before the third respondent to submit their detailed representation along with their documents to that effect to consider their claim.

13.The petitioner submits that the petitioners in W.P.No.12184 of 2011 have filed impleading petition before the third respondent on 25.02.2013, though the allottees/Adidravidar people had filed petition as per direction of this Court, the third respondent has not heard them till now and the third respondent neither disposed their representation nor passed any orders till now.

14.The petitioner further submits that the third respondent had passed proceedings dated 11.12.2018 in Na.Ka.No.2624/2004/AA1 in order to issue patta in favour of the other community people on the ground that they were in occupation by wrongly interpreting the G.O.No.255.

15.According to the petitioner, the third respondent has relied upon the G.O.No.255 issued by Adi Dravidar Tribunal Welfare (TDL2) dated 02.11.1997 is extracted hereunder:

- Considering the legal validity to distribute the lands among the scheduled caste members of the society (i.e) to assaying 5 acres of land to the schedule caste members of the society who are the original allottees of the land if they are alive as on date and the land is in the their physical possession, a detailed case by case, study to decide or merits is essential in these cases.
- The present members, if they are in physical possession shall be given 3 acres of the land subject to eligibility and the extent over subject to eligibility and the extent over and above shall resumed.
- The present occupiers (other than member) of land shall be assigned one acre each if eligibility for free assignment and if not, on collection of market value, wherever the collector is of he conion that eviction is not practically possible.
- The lands which are not in occupation of any one shall be assigned to eligible persons at the rate of one acre each subject to the rules in force. Here while assigning the land, preference shall be given to scheduled caste persons.
- Even in case of Legal Heirs, those who are actually enjoying land shall be given patta subject to the above observation.



- Pattas shall be issued in the names of renal members of the family as far as possible and if not possible it should be given to male members after recording in writing theresors for the same.

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16.The petitioner submits that the third respondent failed to note that while dissolving the society, the Deputy Registrar Co-operative Society passed proceedings in Na.Ka.No.12138/1993 Ne.Ku.SA. dated 03.04.1997 wherein it was made clear that S.1368, Unathur Land Colonization Society owned lands measuring 121.80 acres (493.30.0 hector) cent and the land is in the possession of 22 members of the society and further, the Deputy Registrar of Co-operative Society shall hand over the land to the Revenue Department in order to issue patta in favour of the occupants/allottee and also requested for handing over the land to occupant/allottees.

17.The petitioner further submits that the GO (MS).255 issued by Adi Dravidar and Tribal Welfare Department (TDL2) dated 02.11.1993, which does not speak about the patta to be given to the other community people, the patta can be issued to persons other than the member, which would implies only for that persons belongs to Schedule Caste people and it is conveniently interpreted as if the patta can be issued to other community people also, which is not correct.

18.According to the petitioner, in other words the original intention purpose and object of the land formation of colonization society was to allot lands to Schedule Caste people, merely because of winding up of the society, other community people would not get patta in the land allotted to the Scheduled Caste people and the same land given to the Scheduled Caste people in any other scheme or their possession could be confirmed by a suitable order.

19.The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

20.The learned Government Advocate for the respondents filed a copy of the Status Report of the third respondent. The relevant paragraphs of the Status Report of the third respondent is extracted hereunder:

It is submitted that the 4th respondent herein, The Tahsildar, Thalaivasal Taluk after bifurcation of Attur Taluk has been directed from this office to prepare Land Assignment records for making eventual assignments to the present occupiers of the lands in



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S.Nos.1/2A, 2, 3, 4, 5/1, 6/1, 7/2, 8/2A, 149, 335/2, 156/2, 151 and 333 admeasuring 121.80 acres, observing usual formalities and as per the instructions issued in the Government Orders mentioned in the counter affidavit already filed in the matter. As per this office instructions, the 4th Respondent herein namely the Tahsildar, Thalaivasal is inspecting the lands occupied by the present enjoyers holding appropriate enquiries, which are yet to be completed. It is ascertained that since there is a pandemic situation for the past one year or so due to the outbreak of Covid 19 in 1st and 2nd wave the preparation of proposals for assignment of lands to the present occupants are being delayed. However the Tahsildar, Thalaivasal has requested to grant 6 months time to complete the work since Notices are being issued to the concerned persons and since the Society was formed in the year 1962, no original allottees are found to be occupying the lands in question.

In the circumstances stated above it is humbly prayed that grant of about 6 months time may be granted to complete the task of assigning the lands in question in Unathur village to the present occupiers as per the guidelines issued in the Government orders mentioned in the counter affidavit already filed.

21.Heard, learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

22.In view of the above facts and circumstances of the case and considering the submission made by either side, this Court directs the Authorities to consider the aforesaid Government Order and pass appropriate orders in accordance with law within a period of seven months from the date of receipt of a copy of this order.

23.With the aforesaid direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pam/dk



To

1. The Secretary to Government,
Adi Dravidar & Tribal Welfare Department,
Secretariat,
Chennai - 600 009.

2. The District Collector,
Salem District,
Salem.

3. The Revenue Divisional Officer,
Attur,
Salem District.

4. The Tahsildar,
Attur Taluk,
Salem District.

+1cc to the Government Pleader, S.R.No.51608

W.P.No.15927 of 2019

GJ(CO)
RLP(06/01/2022)