

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.Nos.16329 and 16333 of 2018 and
W.M.P. Nos.19476 and 19481 of 2018

A.Nagaraj .. Petitioner in W.P. No.16329 of 2018

Mrs.S.Chokkammal .. Petitioner in W.P. No.16333 of 2018

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary to Government
Revenue and Land Administration Department
Fort St. George, Chennai - 600 009

2.The Commissioner of Land Administration
Ezhilagam, Chempauk
Chennai - 600 005

3.The District Collector
Thiruvallur District
Thiruvallur

4.The Revenue Divisional Officer
Ponneri Taluk
Ponneri

5.The Tahsildhar
Ponneri, Thiruvallur District

Respondents in both writ
petitions

Prayer in W.P. No.16329 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 5th respondent in Na.Ka. No.1972/2018/AA2 dated 13.04.2018, quash the same and direct the respondents to issue patta to the petitioners for Survey No.64 of Anuppampattu Village measuring 85 cents as per G.O. Ms. No.1300 dated 30.04.1971.

Prayer in W.P. No.16333 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 5th respondent in Na.Ka. No.1971/2018/AA2 dated 13.04.2018, quash the same and direct the respondents to issue patta to the petitioners for Survey No.64 of Anuppampattu Village measuring 85 cents as per G.O. Ms. No.1300 dated 30.04.1971.

For Petitioner : Mr.R.Thiyagarajan
in both Wps

For Respondents : Ms.A.Madhumathi
in both WPs Special Government Pleader

COMMON ORDER

These two writ petitions are filed for issuing a writ of certiorarified mandamus to quash the impugned orders of the fifth respondent dated 13.04.2018 in respect of the lands of the petitioners.

2. In both the cases, the petitioners have applied for patta before the respondents. Since their request for patta was rejected on the ground that the lands to which the petitioners seeks patta is a water body, the petitioners have come before this court by way of these writ petitions, to quash the order of the fifth respondent rejecting petitioners' request to grant patta and to direct the respondents to consider petitioners' request as per G.O. Ms. No.1300 dated 30.04.1971.

3. Petitioners have not challenged the classification of the lands immediately after settlement. Though it is stated that the petitioners are entitled to apply for ryotwari patta, it is admitted before this court that the petitioners have not submitted such applications during settlement. After this length of time, in view of limitation, it is not possible for the petitioners to approach the settlement authorities to seek ryotwari patta. In view of the specific classification of the land as per the revenue record that the property has been classified as a water body, the petitioners are not entitled to ryotwari patta by virtue of Section 14A of Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act, 1948. No ryotwari patta can be granted in respect of water body even if the properties are in the holdings of the petitioners. Even if a patta is issued under the Act before the introduction of Section 14A to the Act, that should be cancelled by virtue of amendment that was introduced in the year 1974. In such circumstances, this court is unable to consider petitioners' eligibility to get a patta for the land which was classified as "Eri".

4. The learned counsel appearing for the petitioners in both the writ petitions states that the land in Survey No.64, Anuppampattu Village is not a water body and that the classification as per the revenue record is not supported by any other previous record. It is also contended that the property does not exist as water body as on date and that it is under cultivation. Merely because the land is put to use for cultivation, it does not cease to be a water body. However, it is open to the petitioners to challenge the classification also by approaching the civil court as per the judgment of a Division Bench of this court, which was confirmed by the Hon'ble Supreme Court in *State of Tamil Nadu vs. Ramalinga Samigal Madam* reported in (1985) 4 SCC 10 : AIR 1986 SC 794.

5. In view of the fact that the property has been classified as a water body, the impugned orders rejecting petitioners application for grant of patta, is perfectly in order and this court has no reason to set aside the same. However, liberty is given to the petitioners to seek appropriate relief before the civil court regarding title of petitioners or regarding the character or nature of the lands. If the petitioners are able to get a decree in their favour regarding the classification of the land as ryotwari land, it is also open to them to get a declaration in respect of the property. The Civil Court may also while deciding the rights of the petitioners, can consider petitioners' eligibility to get patta outside the purview of the Act 26/1948 in terms of G.O. Ms. No.1300 dated 30.04.1971.

6. With the above observations and the liberty granted to the petitioners, the writ petitions are dismissed. However, there is no order as to cost. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

asr

To

1.The State of Tamil Nadu

Rep. by its Secretary to Government

Revenue and Land Administration Department

Fort St. George, Chennai - 600 009

2.The Commissioner of Land Administration
Ezhilagam, Chepauk
Chennai - 600 005

3.The District Collector
Thiruvallur District
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Ponneri

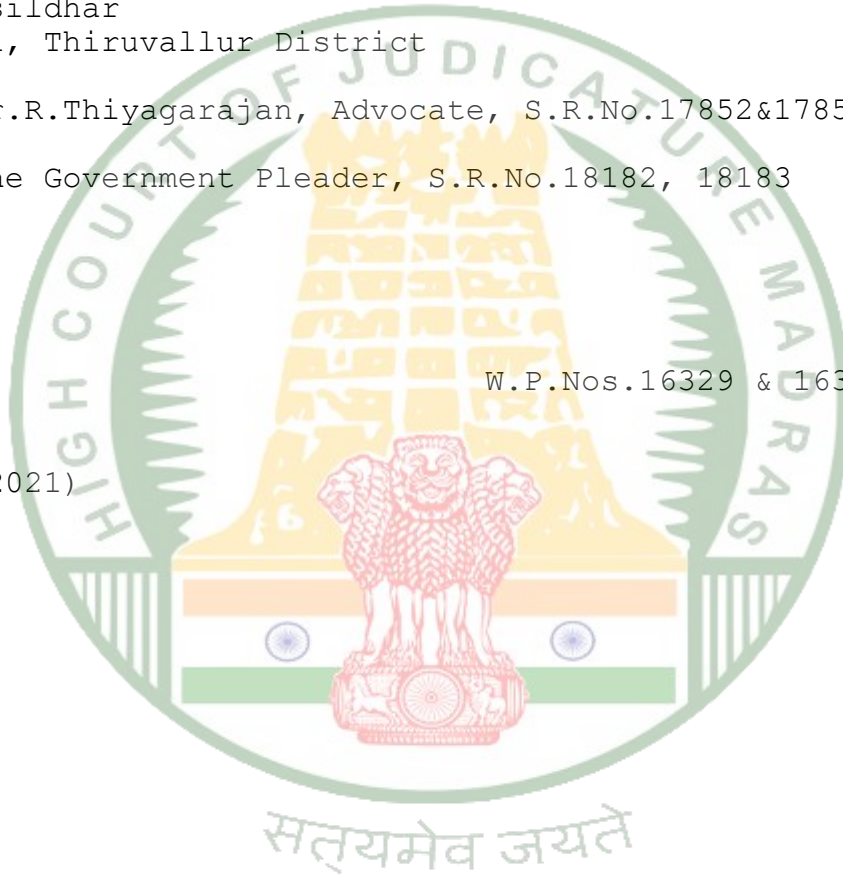
5.The Tahsildhar
Ponneri, Thiruvallur District

+2cc to Mr.R.Thiyagarajan, Advocate, S.R.No.17852&17853

+1cc to the Government Pleader, S.R.No.18182, 18183

W.P.Nos.16329 & 16333 of 2018

GPL (CO)
KM(20/04/2021)



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