



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P. (MD)Nos.279, 365, 366, 367 and 368 of 2021
and W.M.P. (MD) Nos.219, 282, 283, 285 and 286/2021

(Through Video Conferencing)

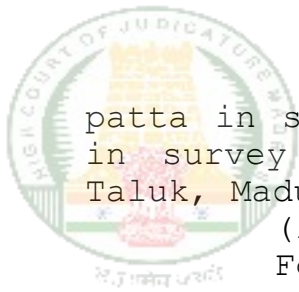
S.Poongodhai	: Petitioner in W.P.No.279 of 2021
Vijayakumar	: Petitioner in W.P.No.365 of 2021
M.Suryamani	: Petitioner in W.P.No.366 of 2021
Rajkumar	: Petitioner in W.P.No.367 of 2021
Rajammal	: Petitioner in W.P.No.368 of 2021

Vs.

- 1.The District Revenue Officer,
Madurai District, Madurai.
- 2.The Tahsildar,
Melur Taluk
Kottampatti, Madurai District.
- 3.The President,
Kottampatti Village Panchayat,
Kottampatti Panchayat Union,
Kottampatti, Madurai District.
- 4.The Block Development Officer,
Kottampatti panchayat Union, Kottampatti
Madurai District.

: Respondents
(in all WPs)

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the impugned order passed by the 3rd respondent vide Uoo.Ma.Ka.No.1/2020 dated 14.12.2020 and quash the same as illegal as well as on merits and direct the 2nd respondent to issue regular



patta in survey No.247/18 as like issued to other nearby residents in survey number 247/2 to 247/11 of Kottampatti Village, Melur Taluk, Madurai District.

(in all WPs)

For Petitioners : Mr.Raja Karthikeyan
For Respondents : Ms.J.Padmavathi Devi for R1 & R2
Special Government Pleader
Mr.C.Venkatesh Kumar for R3 & R4
for M/s.Ajmal Associates

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J)

These writ petitions have been filed challenging the order passed by the 3rd respondent dated 14.12.2020 and for a consequential direction to the 2nd respondent to issue patta to the petitioners.

2. By consent of both sides, all these writ petitions stand disposed of by this common order.

3. On an earlier round of litigation, this Court, in W.P(MD) No.16008/2019 etc., dated 19.09.2019, was pleased to issue the following order:

"5. The learned counsels for the petitioners referred to the provisions of the Revenue Standing Orders and submitted that if the revenue records have not been mutated by the revenue officials, the petitioners cannot be blamed and on account of that, the petitioners cannot be termed as encroachers.

6. We have perused the assignment Pattas, which show that the property has been sub-divided. By way of illustration, if we take the assignment Patta granted to Selvam, son of Avayan, who is the husband of the petitioner in W.P.(MD) No.16008 of 2019, the land, which has been assigned, is comprised in Survey No.247/18 and the extent is 10.0 Feet X 7.4 Feet and one of the boundaries to the property is Survey No.247/1. In the impugned notices dated 03.07.2019, it is stated that the encroachment is in Survey No.247/1. Therefore, first it has to be ascertained as to whether the petitioners have made any encroachments beyond the area, which was assigned to them by way of assignment Pattas in the year 2000. Therefore, in our considered view, a more full-fledged enquiry is required to be conducted in the matter. Fearing threat of eviction, the petitioners have rushed to this Court on receiving the impugned notices and hence, they have not placed any material before the official respondents explaining their stand. For such a reason, we are of the view that the matter should be remanded back to the Commissioner, Kottampatti Panchayat



Union for appropriate action.

7. In the light of the above, we dispose of the writ petitions by directing the petitioners to treat the impugned notices as show-cause notices, submit their reply along with documents. On receipt of the same, the Commissioner, Kottampatty Panchayat Union is directed to conduct an enquiry, make a spot inspection, if necessary take assistance of survey officials and submit a report to the Thasildar, Melur Taluk, who shall pass orders on merits and in accordance with law. Till such time, no coercive action shall be initiated against the petitioners. No costs. Consequently, connected miscellaneous petitions are closed."

4. The present impugned orders have been passed in the purported compliance of the aforesaid order. However on perusal, we find that absolutely no reasons have been assigned and the directions issued by this Court in the order referred to supra has not been complied with. Similarly the representations given by the petitioners were also not considered.

5. In the aforesaid order, this Court has clearly stated that a fullfledged enquiry is required, as the property has been subdivided in pursuant to the assignments made, while issuing pattas. The respondent No.4 was asked to make a spot inspection, take necessary assistance from the survey officials and submit a report to the Tahsildar, who would pass an order thereafter.

6. Even assuming that the respondent No.4 is the competent authority, the aforesaid mandate and directions ought to have been complied with. In a Writ of Certiorari, we are concerned with the decision making process. Certainly, the orders impugned got civil consequence.

7. In such view of the matter, the impugned orders are once again treated as show cause notices. The petitioners are also given liberty to give their responses within a period of four weeks from the date of receipt of a copy of this order. On such receipt, the respondent No.4 shall pass appropriate speaking order by considering the issues involved including the inspection made, the measurement undertaken and the effect of pattas issued to the petitioners. Appropriate orders will have to be passed in the light of the orders passed by the Division Bench as referred to supra and our directions in these writ petitions within a period of eight weeks from the date of receipt of a copy of this order.

<https://hcservices.courts.gov.in/hcservices/> 8. The writ petitions are disposed of with the aforesaid



observations and directions. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Revenue Officer,
Madurai District, Madurai.
- 2.The Tahsildar,
Melur Taluk
Kottampatti, Madurai District.
- 3.The Block Development Officer,
Kottampatti panchayat Union, Kottampatti
Madurai District.

+1 CC to M/s.GP (SR-1270[F] dated 19/01/2021)

W.P. (MD) Nos.279, 365 to 368 of 2021
Dated: 11.01.2021

KK(22.01.2021) 4P 5C