



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2021**

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

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W.P. (MD) Nos.7256 of 2020 & 2525 of 2021

and

W.M.P. (MD) Nos.6693 of 2020 & 2090 & 2091 of of 2021

Murugan

.. Petitioner in both W.Ps.,

Vs

1.The District Collector,
Theni,
Theni District.

2.The District Revenue Officer,
Collectorate,
Theni.

3.The Revenue Divisional Officer,
Periyakulam,
Theni District.

4.The Tahsildar,
Theni,
Theni District. .. Respondents in W.P. (MD) No.7256 of 2020

1.The Government of Tamilnadu,
represented by its Secretary,
Land Administration Department,
(Revenue and Disaster Management Department)
Land Disposal Wind (LD1(2)) Department,
Fort.St.George,
Chennai 600 009.

2.The Commissioner of Land Administration (FAC),
Chepauk,
Chennai 600 005.

3.The District Collector,
Theni,
Theni District.

4.The District Revenue Officer,
Collectorate Building,
Theni.



5.The Revenue Divisional Officer,
Periyakulam,
Theni District.

6.The Tahsildar,
Periyakulam,
Theni District.

.. Respondents in W.P.(MD) No.2525 of 2021

PRAYER in W.P.(MD) No.7256 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for all records relating to the order of the 1st respondent made in Na.Ka.No.2678/2020/B1 dated 19.03.2019 and quash the same and consequently direct the respondents to pass appropriate orders in the light of the documents standing in the name of the petitioner's ancestor thereby recognizing the petitioner's legitimate right and enjoyment of the property in S.No.1591/2 to the extent of 2.04 acre in Veerapandi Village, Theni Taluk, Theni District.

PRAYER in W.P.(MD) No.2525 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for all records of the 1st respondent made in G.O.(Ms).No.638, Revenue and Disaster Management Department Land Disposal Wing, (LD1(2)) Department, dated 12/11/2020 and quash the same and direct the respondents to follow the procedure established under law in so far as the Petitioner in concerned.

For Petitioner : Mr.Joseph Thatheus Jerome for
Mr.P.Sivachandran in WP(MD).7256/20

Mr.Joseph Thatheus Jerome for
in WP(MD).2525 of 2021

For Respondents
in both W.Ps., : Mr.A.Chellapandian
Additional Advocate Genral Assisted by
Mr.C.Ramesh
Special Government Pleader

ORDER

The case of the petitioner is that he has been absolute in possession and enjoyment of the agricultural land comprised in S.No.1590, measuring about 2.28 acres situated at Utkadai-Chathirappatti, Veerapandi Village, Theni Taluk and District from immemorial by way of raising periodical crops. The property originally belonged to the petitioner's ancestors and finally devolved on the petitioner over a period of time. According to the



petitioner, the subject property has been partitioned in favour of his father and his paternal uncle, namely, Natarajan and in the partition, 2.04 acres were allotted to the share of the petitioner's father and the remaining extent of 24 cents were allotted to the share of petitioner's paternal uncle, Natarajan. According to the petitioner, even during the life time of his father, an application was made for change of patta, but the 4th respondent/the Tahsildar, Periyakulam, did not consider his application.

2. According to the petitioner, in 1984, during the UDR scheme, the property was wrongly classified as 'Tharisu' by cancelling the name of his grandfather in respect of 2.04 acres alone. On coming to know about the change of classification of the land, a representation was made on 04.06.1997 by the petitioner to the 1st respondent and the same was forwarded to the 4th respondent. Thereafter, no further action has been taken by the 4th respondent and in this regard, the petitioner appears to have submitted repeated representations, but none of the representations has evoked any response and therefore, the petitioner was constrained to approach this Court in W.P.(MD) No.18882 of 2019 and this Court, vide order dated 30.08.2019, disposed of the writ petition, directing the 1st respondent to consider the representation of the petitioner dated 04.07.2019 and pass appropriate orders within a period of eight weeks.

3. In pursuance of the directions of this Court dated 30.08.2019, the 1st respondent has passed an order on 19.03.2019 stating that the land has been classified as 'Tharisu' and the same was required for public purpose and therefore, the petitioner's request came to be rejected. Challenging the order dated 19.03.2019, the petitioner has filed W.P.(MD) No.7256 of 2020.

4. As far as W.P.(MD) No.2525 of 2021 is concerned, the petitioner is challenging the Government Order passed by the 1st respondent in G.O.(Ms).No.638, Revenue and Disaster Management Department Land Disposal Wing, (LD1(2)) Department, dated 12.11.2020, whereby, the subject land of the petitioner has been classified from ''Assessed Waste Dry Government Poramboke land'' and classified into ''Natham house site patta'' for the purpose of granting assignment in favour of Press and Media persons under the provisions of the Revenue Standing Order-21. According to the petitioner, it is a private land, which was enjoyed by his ancestors for several decades together and the petitioner has been cultivating the same for the last 40 years.

5. In both the writ petitions, Mr.M.Joseph Thatheus Jerome, <https://hcmr.judiciary.gov.in/mseid/> appearing for the petitioner would submit that the



petitioner has been in possession of the subject property and has been cultivating the same for the last 40 years. According to him, the 1st respondent as well as the 3rd respondent/District Collector, Theni, passed the impugned orders without considering the claim of the petitioner at all. According to him, the petitioner had not been given proper opportunity to submit his explanation and produce relevant materials in support of his claim that he has been in possession and enjoyment of the property for several decades together and he has been cultivating the said property without any interference.

6.The learned counsel in fact would draw the attention of this Court to the impugned order, dated 19.03.2019 and refer to the contention of the order, wherein, it had been stated that nearly 55 years, the petitioner had been in possession and enjoyment of the property and carried on agricultural activity in the said land. Although, it is stated in the impugned order that the petitioner was not in occupation, the learned counsel asserted that even as on date, the petitioner has been cultivating the land and he has been in possession of the same.

7.In both the matters, counter affidavits have been filed on behalf of the respondents. It was strongly denied that patta was issued in favour of the petitioner in respect of the subject land, as the land was originally classified as Tharisu. In fact, it is specifically stated in the counter affidavits filed in W.P. (MD) No.7256 of 2020 that as early as 1919, during the settlement period, the land was classified as Sarkar Tharisu not in UDR as contended by the petitioner. Therefore, the question of the petitioner occupying the land and seeking any claim over the same did not arise at all.

8.The counter affidavit was also referred to G.O.Ms.No.638, Revenue and Disaster Management Department, Land Disposal Wing (LD1(2)) Department, dated 12.11.2020, wherein, the land was classified as "Natham House Site Patta" assigned in favour of press and media persons.

9.As a rejoinder, the learned counsel once again asserted that as on date, despite the issuance of the impugned Government Order dated 12.11.2020, the petitioner is still carrying on his agricultural activity, but both the orders of the District Collector as well as the orders passed by the Government are to be held illegal and unjust, as the petitioner, who has been in occupation of the property for several decades has not been heard at all.



10. Although, this Court is of the view that the petitioner has not produced sufficient materials to persuade this Court to accept his plea as to his entitlement and right over the property, yet when an assertion has been made repeatedly by the petitioner that he has been cultivating the land for 4 decades and the fact on which cultivation has also been mentioned by the District Collector in the impugned order dated 19.03.2019, as a matter of providing an opportunity, these writ petitions are disposed of as under:-

i) Whatever be the justifiable reason on the part of the respondents when the petitioner has been asserting that his ancestors have been owning the land or in occupation of the land for several decades and particularly 2.04 acres have been under the petitioner's occupation and patta has also been sought for this land, this Court does not want to dismiss the claim of the petitioner summarily. This is for the reason that the petitioner appears to have not been heard at all either by the 1st respondent or by the District Collector, Theni, while passing both the orders. In consideration of the petitioner's request that he be heard before any adverse decision is taken against him and in this view, to provide him an opportunity of presenting his version before the authority, namely, the respondents 1 and 3 in W.P.(MD) No.2525 of 2020, they are directed to issue fresh notice to the petitioner and provide the petitioner an opportunity of being heard and pass final orders within a period of 8 weeks from the date of receipt of a copy of this order.

ii) It is clarified that the 3rd respondent/the District Collector, Theni, may grant an opportunity of personal hearing to the petitioner and it is up to the petitioner to produce relevant materials in support of his claim to the subject property and also his claim that he has been cultivating the land for several decades.

iii) As far as G.O.(Ms).No.638, Revenue and Disaster Management Department Land Disposal Wing, (LD1(2)) Department, dated 12.11.2020 is concerned, the 1st respondent in W.P.(MD) No.2525 of 2020 is directed to take note of the objections of the petitioner and pass appropriate orders after calling for his objections.

iv) It is clarified that this Court has not expressed any views on the merits and demerits of the petitioner's claim as to his possession of the property and also the fact of his cultivating the same for over few decades.



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11. These writ petitions are therefore disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

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/ /2021

Sub Assistant Registrar(CS)

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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 Government of Tamilnadu,
represented by its Secretary,
Land Administration Department,
(Revenue and Disaster Management Department)
Land Disposal Wing (LD1(2)) Department,
Fort.St.George, Chennai 600 009.
2. The Commissioner of Land Administration (FAC),
Chepauk, Chennai 600 005.
3. The District Collector,
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Collectorate Building, Theni.
5. The Revenue Divisional Officer,
Periyakulam, Theni District.
6. The Tahsildar, Theni, Theni District.
7. The Tahsildar, Periyakulam, Theni District.

+1 CC to M/s.SPL GP (SR-9488 & 9489[F] dated 08/03/2021)

W.P. (MD) Nos.7256 of 2020 & 2525 of 2021
04.03.2021

pm(CO)

TR(17.05.2021) 6P 9C