



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	14.07.2021
DELIVERED ON:	16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.20975 of 2019

and

W.M.P. (MD) Nos.17575 & 17577 of 2019

(Through Video Conference)

Seeni Naina Holding Private Limited,
Rep. by its Power Agent,
Mr.P.Chandran

... Petitioner

Vs.

1.The District Collector,
O/o.the District Collector Office,
Sivagangai District.

2.The Deputy Director,
O/o.the Deputy Director,
Town Planning,
Sivagangai Region,
Collectorate Campus,
Sivagangai District.

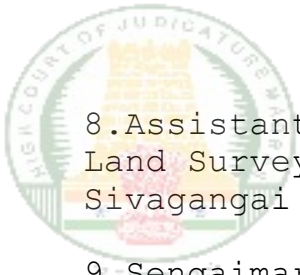
3. The District Revenue Officer,
O/o.the District Revenue Officer,
Sivagangai District.

4.The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Sivagangai District.

5.The Sub-Registrar,
O/o.the Sub-Registrar,
Thirupuvanam,
Sivagangai District.

6.The Tahsildar,
Thirupuvanam,
Sivagangai District.

7.The Executive Officer,
Thiruppuvanam Town Panchayat,
Thiruppuvanam,
Sivagangai District.



8. Assistant Director,
Land Surveyor and Registration Department,
Sivagangai District.

9. Sengaimaran

... Respondents

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[R9 impleaded vide Court order dated 16.07.2021 in W.M.P.No. (MD). 8196 of 2021]

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in ந.க.சி5/8657/2013-2 dated 07.06.2019 and consequentially impugned order passed by the 2nd respondent vide his proceedings ந.க.எண்.2024/2019/சிம-4 dated 10.06.2019 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents 1 to 8 : Mr.Veerakathiravan
Senior Counsel
Standing counsel for State of Tamilnadu
Assisted by Mr.M.Lingadurai, Govt. Advocate

For Respondent No.9 : Mr.J.Anandkumar

O R D E R

The subject matter of challenge in the present writ petition is the impugned order passed by the first respondent through proceedings dated 07.06.2019 and the consequential order passed by the second respondent dated 10.6.2019.

2. The case of the petitioner is that the subject property was plotted out and the layout was approved by the competent authority through proceedings dated 13.12.2017. Thereafter the plots were sold to various persons. The second respondent through proceedings dated 13.12.2017, regularised the plots and the third respondent through proceedings dated 19.01.2018 granted sanction for the purpose of putting up construction.

3. The second respondent through the impugned proceedings dated 10.06.2019 cancelled the earlier order dated 13.12.2017 on the basis of the impugned proceedings of the first respondent dated 07.06.2019 and thereby the layout approval and the planning permission was cancelled. Aggrieved by the same, the present writ petition has been



filed before this Court.

4. The second respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:

“5. I submit that the entire village called T.Nelmudikarai village of Thirupuvanam Taluk, was taken over by the Government of Tamilnadu, under the Tamilnadu Inam Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948 vide G.O.Ms.No.2093 dated 11.08.1949. The entire lands in S.No.1 of the said village measuring 78.60 acres was classified as **"Government Puramboke-Vaigai River"** during settlement of Nelmudikarai Village, Thiruppuvanam Taluk stands registered in the name of Seeni Nainar Holding (P) Ltd in Patta No.879. I submit that however it is claimed that the said lands in S.No.1 was subdivided into S.Nos.1/1 and S.No.1/2 by the then Tahsildhar, Manamadurai, based on the proceedings of the then Revenue Divisional Officer, Sivagangai, dated 13.04.1978 granting patta outside the scope of the said Act 26 of 1948. It was also claimed that the then RDO, Sivagangai, has issued an errata on 13.09.1979 changing the S.No.1/6 instead of S.No.1/2. The said land in question in S.No.1/6 measuring an extent of 2.79.50 hectares and the land in S.No.3/30 measuring the extent of 5-97-24 Hectares.

6. I submit that it is evident that the patta if any or so granted is illegal on its face for the reason that Section 14 A of the said Act 26 of 1948 creates a bar for grant of patta to the water bodies. It proceeds to contemplate that the pattas if any granted stands cancelled. Therefore, the patta said to have been granted is void ab initio. It is also pertinent to point out no Revenue Authority has any power to reclassify the lands more particularly a water body namely Vaigai River Porambokku.

7. I submit that in the above stated circumstances, when the same came to light, pursuant to the series of directions issued by this Hon'ble court in a public interest litigation in W.P.(MD). No.20927 of 2018 etc., batch calling up on the officials to survey the Vaigai River and identify the encroachments and remove them on war footing. In fact, the Hon'ble Division Bench had restrained the Registering Authorities from Registering any



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documents relating to water bodies. I submit that based on that directions the DRO, Sivagangai had issued instructions to the Registration authorities and to the Tahsildhars concerned to stop Registration of documents and mutation of revenue entries in respect of the aforesaid lands in S.No.1 and its sub divisions vide proceedings dated 08.12.2018.

11. I submit that be that as it may on the other hand since the planning permission obtained by the writ petitioner on 13/12/2017 for the lands in S.No. 1/6 (par) and S.No.3/1A1A(part) of the aforesaid village, is also illegal, the 1st respondent instructed me to cancel the planning permission vide proceedings dated 7/6/2019 which is impugned in the above writ petition. I submit that based on the said proceedings dated 7/6/2019, I had also passed the consequential proceedings dated 10/6/2019 cancelling the planning permission which is also under challenged in the above writ petition."

5. Heard Mr.M.Ajmal Khan, learned Senior Counsel appearing on behalf of the petitioners, Mr.Veerakathiravan, learned Senior counsel, Standing Counsel for State of Tamilnadu assisted by Mr.M.Lingadurai, learned Government Advocate appearing for the respondents 1 to 8 and Mr.J.Anandkumar, appearing for the impleading respondent 9.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. It can be seen from records that originally Survey No.1 of T.Nelmudikarai Village, Sivagangai Taluk was classified in the settlement register as a water body (Vaigai Nathi) in the year 1978, this Survey No.1 was sub-divided and the sub-divided Survey No.1/6 was assigned in favour of one D.Rajendran. All the other sub divisions continued to be classified as water bodies. His name was also entered in the 'A' Register. The total extent of land that was assigned was approximately 6 acres 90 cents.

8. The said Rajendran sold the property in favour of the petitioner through a registered sale deed dated 09.05.2007. Thereby the petitioner claims to be the owner of the property.

9. Thereafter the petitioner had obtained layout approval and planning permission through various proceedings of the second and third respondents.

10. While so, a public interest litigation came to be filed



before this Court by alleging that encroachments are being made in the Vaigai River and the same has to be removed. The Division Bench of this Court while dealing with the batch of writ petitions passed orders on 26.10.2018 directing the authorities to take immediate steps to remove the encroachments and to issue necessary instructions to the concerned authorities not to register any documents pertaining to the property.

11. As a sequel, the first respondent through proceedings dated 07.06.2019 directed the Planning Authority and the Executive Officer of the Town Panchayat to cancel all the approvals and planning permissions granted and submit a compliance report. In obedience to the proceedings of the first respondent, the layout approval and the planning permission granted to the petitioner has been cancelled through impugned proceeding dated 10.06.2019.

12. The learned Senior counsel appearing on behalf of the petitioner submitted that the registering authority refused to register the document pertaining to the property based on the communication made by the District Revenue Officer of Sivagangai District and it became a subject matter of challenge in W.P(MD). No.4368 of 2019. The learned counsel by referring to the order passed by this Court in this writ petition on 25.04.2019, submitted that a direction was given to the Sub Registrar to register the document since the patta that was already issued is still in force and the development had taken place on the approval given by the authorities. The learned Senior counsel further submitted that the proceedings of the District Revenue Officer, Sivagangai was challenged in W.P.(MD).No.20723 of 2019 and this writ petition was allowed and as against the same a writ appeal was filed in W.A.(MD). No.778 of 2020 and this writ appeal was disposed of by an order dated 09.03.2021. The learned Senior counsel placed reliance upon paragraph No.4 of the order, which is extracted hereunder:

"4.Though we find force in the submissions made by the learned Additional Advocate General appearing for the appellants, ultimately the relief granted is not interfered with as an attempt to cancel the private patta granted would be enough to rectify the irregularity. The observation of the learned Single Judge will not stand in the way of the appellants to cancel the patta and the communication sent cannot be construed as bad in law, since the order of the Division Bench is to the effect that water bodies will have to be protected and the documents relating to water bodies should not be registered. Unfortunately, as on today, the private patta has not been cancelled and until and unless the said anomaly is rectified as required under law, the



relief granted cannot be interfered with. However, we make it clear that the order passed by the learned Single Judge is attributed to the case of the respondents alone. Any such registration of documents will not stand in the way of the appellants taking appropriate steps to cancel the patta granted."

13. The learned Senior counsel submitted that even after the above order was passed, no steps were taken to cancel the patta, but however the respondents have proceeded to cancel the layout approval and the planning permission even without issuing any notice to the petitioner and hence the impugned order is illegal.

14. In reply to the said submission, Mr.Veera Kathiravan, learned Senior counsel, Standing counsel for State of Tamilnadu appearing for the respondents 1 to 8 submitted that an important water body namely, Vaigai River is in peril and the very issuance of patta in the year 1978 is illegal. To substantiate his submission, the learned counsel placed reliance upon Section 14-(A) of the Tamilnadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. He would further submit that steps are already taken to cancel the patta and the learned Senior counsel justified the cancellation of the layout approval and the planning permission.

15. It is true that the Division Bench of this Court took very serious note of the encroachments that were coming up in the Vaigai River and issued various directions. By the time these directions were issued, the original Survey No.1 was sub divided and sub divided Survey No.1/6 was assigned in favour of a private individual and a patta has also been granted. The property was conveyed to the petitioner and the petitioner has proceeded to obtain layout approval and planning permission. Even assuming that all these proceedings are illegal, that does not mean that the respondents will straight away cancel the permission given to the petitioner even without putting them on notice. That apart, when the patta is intact and it has not been cancelled, the respondents were not right in straight away cancelling the layout approval and planning permission. These permissions were granted only based on the patta and they now stand cancelled inspite of the patta being intact.

16. The learned Standing Counsel for State submitted that the District Administration has already taken steps to cancel the patta after issuing notice to the petitioner. It was submitted that the proceedings will be completed within a short period and till then the petitioner should not create third party rights and put up structures in the property.

17. In the considered view of this Court, the impugned



proceedings issued by the respondents suffer from illegality since it has been issued without putting the petitioner on notice and affording opportunity. In other words, there is violation of principles of natural justice.

18. In view of the above, taking into consideration the seriousness of the allegations made on the side of the respondents and at the same time to safeguard the right and interest of the petitioner, this Court directs the impugned proceedings of the first respondent dated 07.06.2019 and the second respondent dated 10.06.2019 to be kept in abeyance. Since steps have already been initiated for cancellation of patta, there shall be a direction to the respondents to issue notice to the petitioner and call for explanation from the petitioner. On receipt of the explanation and after affording opportunity to the petitioner, final orders shall be passed with regard to the validity of the patta within a period of three(3) months from the date of receipt of a copy of this order. Depending upon the result of the patta proceedings, the impugned proceedings of the first and second respondents that is kept in abeyance, can be acted upon or withdrawn, as the case may be. Till this process is completed, the petitioner shall maintain the present status quo and shall not create any third party rights or make any developments in the subject property.

19. This writ petition is disposed of with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

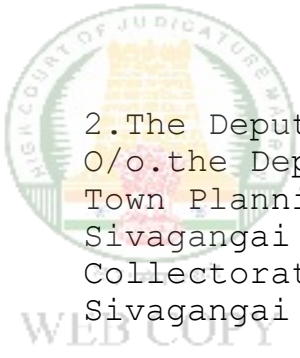
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Note:

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 District Collector,
O/o.the District Collector Office,
Sivagangai District.



2.The Deputy Director,
O/o.the Deputy Director,
Town Planning,
Sivagangai Region,
Collectorate Campus,
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Thiruppuvanam,
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Land Surveyor and Registration Department,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-23195[F] dated 19/07/2021)

W.P. (MD) No.20975 of 2019
16.07.2021

RD(9.08.2021) 8P 10C