



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.3.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE  
AND  
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.765 of 2022 &  
CMP.No.5034 of 2022

P.Singaravelu

.. Appellant

Vs.

- 1.The District Collector,  
Kancheepuram District,  
Kancheepuram.
- 2.The Tahsildar, Alandur,  
Chennai.
- 3.The Revenue Divisional Officer,  
Tambaram, Chennai-45.
- 4.The Taluk Surveyor, Alandur  
Sub-Registrar Office, Alandur,  
Chennai.
- 5.The Commissioner, Greater  
Chennai Corporation,  
Corporation Buildings,  
Chennai-9.
- 6.The Estate Officer, Defence  
Ministry, Fort St.George, Chennai.
- 7.The H Colonel, Officers Training  
Academy, St. Thomas Mount,  
Chennai-16.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 18.11.2021 passed in W.P.No.19771 of 2016.

Prayer in W.P.No.19771 of 2016 : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the entire records of the District Collector dated 17.12.1987 in assigning the lands



notified and classified as Government Promboke in the Revenue A Register S.F.No.89, 90, 96, 97, 98 Tulasingapuram at Nandambakkam within Chennai Corporation limits on the file of District Collector, Kancheepuram and quash the same and consequently direct the respondents 1 to 4 to measure ear mark the lands in S.F.No. 89 East West 357 feet and North South 45 Feet and in S.F.NO.90 North South 316 feet East West 45 feet as approach road direct the respondent 5 to lay a pucca approach road as per Section 203 and 204 of the Chennai City Municipal Corporation Act and further direct the 2 respondent Tahsildhar to change the patta in the name of the corporation Chennai further direct the respondents 1 to 5 to construct immediately.

1. Public convenience Toilets
2. A Elementary Schools from standard 1 to 5
3. A Community Centre and
4. A Temple.

As before in S.F.No.96, 97 and 98 Tulasingapuram, Nandambakkam, Ward 158 chennai corporation limits, chennai 600 016.

|                 |   |                                                             |
|-----------------|---|-------------------------------------------------------------|
| For Appellant   | : | Ms.V.Bagyalakshmi                                           |
| For Respondents | : | Mrs.R.Anitha,<br>Special Government Pleader<br>for R1 to R4 |

#### JUDGMENT

(Judgment was delivered by the Hon'ble Chief Justice)

Mrs.R.Anitha, learned Special Government Pleader accepts notice for respondents 1 to 4.

2. We have heard the learned counsel appearing for the appellant.

3. By this writ appeal, a challenge to the order dated 18.11.2021 passed in W.P.No.19771 of 2016 was made whereby the writ petition filed by the appellant herein was disposed of along with Contempt Petition No.750 of 2017. The contempt petition was filed alleging non compliance of the interim order passed by the learned Single Judge in the writ petition. However, the order passed in the contempt petition has not been assailed and therefore, we are not concerned with that in this judgment. Rather, what has been challenged is the order passed in the writ petition.

4. The writ petition was filed challenging the order passed by the first respondent - District Collector assigning the lands notified and classified as Government Poromboke in the Revenue A Register. A reference to S.Nos.89, 90, 96, 97 and 98,



Tulasingapuram at Nandambakkam within Chennai Corporation limits was also given to seek a direction to respondents 1 to 4 to measure and earmark the lands in S.Nos.89 and 90 to have an approach road and to direct the fifth respondent to lay a pucca approach road as per Sections 203 and 204 of the Chennai City Municipal Corporation Act.

5. The matter has to be examined now, though after a detailed discussion, the order was passed by the learned Single Judge after taking note of the relevant facts without going into the issue of laches in challenging the order passed by the first respondent dated 17.12.1987 by maintaining a writ petition in 2016 i.e almost after 29 years.

6. The writ petition should have been dismissed for challenging the order dated 17.12.1987 passed by the first respondent on the ground of laches itself. In any case, the learned Single Judge had taken into consideration the status of different survey numbers as exist in the revenue records. A detailed discussion of those survey numbers has been given in paragraphs 18 and 19 of the order under challenge.

7. The learned counsel appearing for the appellant submits that a general direction has been given to the respondents 1 to 5 to remove the encroachments, ignoring the fact that the lands S.Nos. 91/1A and 91/1B are patta lands and therefore, they cannot be stated to be encroached lands. The appellant is a subsequent purchaser of the land from the patta holder whose name exists in the revenue records against S.No.91/1A and otherwise, the writ petition was preferred on behalf of the villagers. On the apprehension that they would be evicted in view of the order passed by the learned Single Judge, the writ appeal has been filed. S.No.91/1A is not a defence land, but treating it to be a defence land a direction has been given, and would affect not only the appellant, but also the villagers.

8. We have carefully considered the submissions of the learned counsel appearing for the appellant and perused the records.

9. The writ petition was filed basically challenging the order dated 17.12.1987 passed by the first respondent assigning the lands notified and classified as Government poromboke in the Revenue A Register. The challenge was not acceptable after a lapse of 29 years without justifying the delay. Though the writ petition has been filed challenging the classification against S.Nos.89, 90, 96, 97 and 98, now the writ appeal has been argued largely with reference to S.No.91/1A. The reason for arguing the case with reference to S.No.91/1A is that in the counter filed in the writ petition, the respondents made an allegation against



the appellant for encroaching the aforesaid land, though the said survey number was not included in the original prayer in the writ petition.

10. To examine as to whether any direction has been given with reference to S.No.91/1A, we have to refer to certain paragraphs of the order under challenge and for that purpose, paragraphs 18 and 19 are quoted as hereunder :

"18. The Tahsildar / 2 nd respondent in his counter affidavit has stated that some residents at Tulasingapuram have encroached the following lands and residing long time and the details are as follows:

| S.No | Survey No. | Extract Extension | Classification                     | Remarks                                       |
|------|------------|-------------------|------------------------------------|-----------------------------------------------|
| 1    | 94         | 0.60.5            | Village site                       | 37 encroachers (Karumariamman Koil Street)    |
| 2    | 92         | 0.15.0            | Eri                                | 10 encroachers (Koothalamman Koil Street)     |
| 3    | 91/2       | 0.45.5            | Defence land                       | 40 encroachers (Koothalamman Koil Street)     |
| 4    | 99/1       | 0.52.5            | Arulmigu Koothalamman Koil (patta) | 40 encroachers                                |
| 5    | 191/3A     | 0.37.5            | Village site                       | 16 patta holders (Muthumariamman Koil Street) |
| 6    | 100        | 0.87.0            | patta land                         | 200 patta holders                             |
| 7    | 101        | 1.08.0            | patta land                         |                                               |

However, the encroachers have been provided with basic facilities such as Drinking Water, Electricity and Road by the Chennai Corporation.

19. In respect of the Nandampakkam village, the details of encroachments are stated as under:-



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| S.No | Survey No. | Extract Extension | Classification | No.of encroachments |
|------|------------|-------------------|----------------|---------------------|
| 1    | 91/2       | 0.45.5            | Defence land   | 40                  |
| 2    | 92         | 0.15.0            | Eri            | 10                  |
| 3    | 94         | 0.60.5            | Village site   | 37                  |
| 4    | 96         | 1.08.5            | Defence land   | No encroachments    |
| 5    | 97/1       | 0.07.0            | Defence land   |                     |
| 6    | 97/2       | 0.11.0            | Defence land   |                     |
| 7    | 191/3A     | 0.37.5            | Village site   | 16 patta holders"   |

11. The paragraphs quoted above show the details of each survey number with its nature, which did not include S.No.91/1A. Rather, the land in S.No.91/2 is stated to be a defence land.

12. Yet, to create a confusion, an argument is raised by learned counsel for the appellant that the learned Single Judge had issued a direction even for S.No.91/1A, though in the entire order passed by the learned Single Judge, we do not find any reference to S.No.91/1A. The aforesaid is one part and otherwise, the writ petition seems to have been designed to maintain the encroachment in the defence land and not to allow construction of the wall to protect the possession of other encroachers, which may be even for S.No.96. The challenge to the order passed by the first respondent in classifying the lands to be Government poramboke lands was precisely to protect the encroachment by others who have raised construction in the Government land, for which, Notification was issued in the year 1987.

13. The learned Single Judge recorded a finding that in all the survey numbers indicating to be defence lands, a part has been encroached and therefore, discussing the status of survey to the extent required, the following directions were given :

"30. Regarding construction of compound wall by the respondents 6 and 7 are concerned, the Advocate Commissioner's report is unambiguous that construction of compound wall would not cause any hindrance to the people residing in that locality. In respect of the encroachments of defence land, the Defence authorities are empowered to remove the encroachments and construct compound wall for the protection of defence properties."



14. The learned Single Judge came to the conclusion that the appellant failed to establish his right to claim relief, as the relief sought was not with reference to S.F.No.91/1A, but it is with regard to other survey numbers notified as Government lands. The challenge was that the lands should not have been classified as Government lands.

15. Finding no ground, the prayer was not accepted by the learned Single Judge and respondents 1 to 5 were directed to conduct survey with reference to the Revenue records and thereupon remove all the encroachments in the defence and government land by following the procedure and provide alternate accommodation by allotting tenements/land for the eligible poor and downtrodden people under the Government Welfare Schemes. There is no direction for eviction of those who are patta holders. The learned Single Judge, in paragraph 28 of the order under challenge, observed that if any individual claims title or ownership in respect of the lands, it is for the said individual to approach the competent Civil Court. The said liberty was given to those who do not have a clear title.

16. Taking into consideration the overall facts, we do not find any reason to cause interference with the order passed by the learned Single Judge. Rather, after discussing the arguments at length and referring to the revenue records, just and appropriate directions were given to protect the defence as well as the Government lands while directing to extend the benefit of special schemes if the encroacher is a poor or downtrodden person.

17. In view of the above, the writ appeal is dismissed. Since we have dismissed the writ appeal, we direct respondents 1 to 5 to execute the order under challenge expeditiously and action for that purpose would be initiated within two weeks from today. Consequently, the connected CMP is also dismissed. There will be no order as to costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

1.The District Collector,  
Kancheepuram District,  
Kancheepuram.



2.The Tahsildar, Alandur,  
Chennai.

3.The Revenue Divisional Officer,  
Tambaram, Chennai-45.

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Academy, St. Thomas Mount,  
Chennai-16.

+1cc to M/s.P.Bagyalakshmi, Advocate, S.R.No.21288

W.A.No.765 of 2022 &  
CMP.No.5034 of 2022

NRL(CO)  
SB(05/04/2022)