



W.P. Nos.13610-13612/2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
29.09.2022	18.10.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.13610 TO 13612 OF 2015

AND

W.M.P. NOS.25632 TO 25634 OF 2016

M.P. NOS. 1 & 2 OF 2015 (2 NOS.)

D.Chandran	.. Petitioner in WP 13610/15
C.Saravanan	.. Petitioner in WP 13611/15
C.Shanmugasundaram	.. Petitioner in WP 13612/15

- Vs -

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

2. The Collector
Kancheepuram District
Kancheepuram.

3. The Revenue Divisional Officer
Tambaram, Chennai 600 045.



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4. The Tahsildar
Tambaram Taluk
Tambaram, Chennai 600 045.

... Respondents in all petitions

W.P. No.13610 of 2015 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records relating to the order in N.K.25950/2014/No.1 dated 21.04.2015 passed by the Collector, Kancheepuram District, the 2nd respondent herein and quash the same and consequently direct the respondents herein to issue assignment order to the petitioner herein in respect of the lands measuring an extent of 02880 sq.ft., comprised in S. No.308/1 Part, No.27, Tambaram Village, Tambaram Taluk, Kancheepuram District.

W.P. No.13611 of 2015 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records relating to the order in N.K.25950/2014/No.1 dated 21.04.2015 passed by the Collector, Kancheepuram District, the 2nd respondent herein and quash the same and consequently direct the respondents herein to issue assignment order to the petitioner herein in respect of the lands measuring an extent of 02435 sq.ft., comprised in S. No.308/1 Part, No.27, Tambaram Village, Tambaram Taluk, Kancheepuram District.



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W.P. No.13611 of 2015 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records relating to the order in N.K.25950/2014/No.1 dated 21.04.2015 passed by the Collector, Kancheepuram District, the 2nd respondent herein and quash the same and consequently direct the respondents herein to issue assignment order to the petitioner herein in respect of the lands measuring an extent of 02135 sq.ft., comprised in S. No.308/1 Part, No.27, Tambaram Village, Tambaram Taluk, Kancheepuram District.

For Petitioners : Mr. R.Rajarajan

For Respondents : Mr. J.Ravindran, AAG, assisted by
Mr. A.Selvendran, AGP

COMMON ORDER

Assailing the rejection of the representation of the respective petitioners for grant of assignment patta in respect of the lands under their respective possession and enjoyment for a long period of time, the present petitions have been filed.



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2. The petitioner is W.P. No.13610/15 is the father of the petitioners in W.P. Nos.13611 and 13612/15. It is the case of the petitioners that they are in possession and enjoyment of the property to an extent of 0.94.04 hectares of land comprised in Survey No.308/1 Part, No.27, Tambaram Village, Tambaram Taluk for more than 40 years and the said lands, which were lying barren, were under the occupation of the petitioners and over a period of time, the said lands were transformed into agricultural lands due to the tireless and hard work of the petitioners. It is the further case of the petitioners that in the said lands, the petitioners have planted Coconut, Teak, Gauva, Mango, Tamarind, Banana and Nelli trees. It is the further case of the petitioners that by virtue of their long, uninterrupted and continuous possession and enjoyment of the property, the petitioners are eligible for grant of assignment of the said land as per the Revenue Standing Orders. It is the further case of the petitioners that they made several representations, which did not evoke any proper response inspite of the fact that the Revenue Divisional Officer had conducted spot inspection of the lands and submitted a report recommending grant of patta. Therefore, the petitioner filed writ petitions in W.P. Nos.26624 and 26625 of 2014 in which this Court, vide order dated 8.10.2014, directed the District Collector to consider the



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representation and pass appropriate orders. Pursuant to the said direction, the present impugned order in view of the stay order in G.O. Ms. No.1470 dated 11.05.1971 on the ground that the subject lands are 'Vandipattai Poramboke' for which no patta can be granted. It is the case of the petitioners that the impugned order has not taken into account the reports of the 4th respondent to the 2nd respondent recommending relaxation of the conditions inspite of the order of stay in the aforementioned Government Order by collecting the value of the land and assign the said lands in favour of the petitioners. The said impugned order is wholly unsustainable as it had not taken into consideration the aforesaid reports and aggrieved by the said non-application of mind on the part of the 2nd respondent in passing the impugned order, the present writ petitions have been filed.

3. Learned counsel appearing for the petitioner submits that it is not disputed that the petitioners are in continuous and uninterrupted possession and enjoyment of the subject lands, which is evidenced by the reports submitted by the various revenue authorities. It is the further contention of the learned counsel that even as early as in the year 1992, the Revenue Inspector had



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conducted spot inspection and submitted report to the Tahsildar and pursuant to the public notice calling upon objections with regard to grant of assignment of the said lands, in view of the fact that there was no objection raised by any person, recommendation was made to the 2nd respondent for grant of assignment patta by collecting the land value at the market rate, which value has also been ascertained and submitted by the revenue authorities in their report. However, the 2nd respondent, without considering the aforesaid vital fact, has misdirected himself and by sheer non-application of mind to the materials available before him, has erroneously passed the impugned order.

4. It is the further submission of the learned counsel that the 4th respondent, even considering the stay order as per G.O. Ms. No.1479 dated 11.05.1971, had recommended relaxation of the same and suggested collection of value for the land, which aspect has not been considered by the 2nd respondent, though conceding to the said suggestion would have earned a sizeable amount as revenue to the Government.



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5. It is the further submission of the learned counsel that when the Revenue Divisional Officer and Tahsildar had recommended relaxation of the conditions relating to grant of assignment, the District Collector, without considering their reports in proper perspective, which would have resulted in forwarding the entire records to the Government for consideration, had erred in passing the impugned order by rejecting the request for assignment, without giving proper reasons, which requires interference at the hands of this Court.

6. It is the further submission of the learned counsel that the objection, after seventy long years by one Valluvar Gurukulam, with regard to the subject lands, which has been given consideration by the District Collector, inspite of the admitted and established fact that the petitioners have been the continuous possession and enjoyment of the subject lands, clearly reveals the non-application of mind on the part of the 2nd respondent to the materials available on record. It is the further submission of the learned counsel that at the time of the public notice, the said Valluvar Gurukulam had not come up with any objections and, therefore, after a passage of more than seven decades placing reliance on certain objections raised by Valluvar Gurukulam is wholly



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unsustainable. Therefore, he prays for allowing the present writ petition with an affirmative direction to the respondents to consider assignment of the subject lands to the petitioners on receipt of the value of the lands as per the report of the 4th respondent.

7. Per contra, learned Addl. Advocate General appearing for the respondents submit that the subject lands were initially assigned to Valluvar Gurukulam vide G.O. Ms. No.794, Revenue Department dated 18.4.1944 with specific condition that the said lands should not be alienated and used only for agricultural purposes. However, violating the said specific condition, a portion of the land was alienated to one Krishnamurthy (Late), the then teacher of the school for cultivating paddy, which was encroached upon by the petitioner in W.P. No.13610/15, who was working as watchman under the said Krishnamurthy and upon the passing away of Krishnamurthy, the petitioner had started utilizing the land for commercial purposes. It is the further submission of the learned Addl. Advocate General that only for the purposes of retaining the vast extent of subject lands, the petitioners are waging a continuous legal battle at various



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levels, thereby preventing the Government from utilizing its land for public purpose.

8. It is the further submission of the learned Addl. Advocate General that initially, as per the revenue records such as Re-survey Register, 'A' Register, the lands in S. No.308 is classified as Government Poramboke – Cart Track for the purpose of use by the general public. Later the said lands have been classified as 'Road Poramboke' and the writ petitioners have encroached upon the same for more than 45 years and are not willing to vacate the same. It is further submitted by the learned Addl. Advocate General that the subject lands is located in a prime area, where there is acute shortage of Government lands, which could be used for public purpose and on the basis of the stay of the impugned proceedings granted by this Court, the petitioners are continuing to enjoy the said lands to the detriment of the Government, as the respondents require the said lands for the purpose of construction of building for Tambaram Police Commissionerate, as requested by the Deputy Commissioner of Police, Tambaram.



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9. It is the further submission of the learned Addl. Advocate General that the petitioners cannot claim any right over the said lands merely because of their possession and enjoyment for a long period of time, as the petitioners are rank encroachers. It is the further submission of the learned Addl. Advocate General that when the lands are required by the Government for a public purpose, the petitioners, as a matter of right, cannot claim for assignment of land in their favour, as private purpose cannot outlive public purpose and public purpose has to be given more weightage. Accordingly, he prays for dismissal of the present petitions.

10. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

11. It is the admitted case of the parties that the subject land is a Government poramboke land, which is classified as a 'cart track'. The petitioner, though claims that he has been in continuous possession and enjoyment of the subject lands, however, has not spoken as to how he landed on the said lands,



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but it is the case of the respondents that the lands were assigned to one Valluvar Gurukulam with specific conditions that it should not be alienated and that it should be used only for educational purpose, but violation of the conditions resulted in the lands being encroached upon by the petitioner in W.P. No.13610/15, who was acting as the watchman of the person to whom the said alienation was made by the said Valluvar Gurukulam. However, on the aforesaid contention, there is no whisper from the side of the petitioners.

12. Be that as it may. The petitioners claim possession and continuous enjoyment and claims to have cultivated the said land in which very many trees and plantations have been grown. However, the spot inspection conducted by the revenue authorities reveal that but for a few coconut trees and a peepul tree, cultivation and plantation as alleged by the petitioner are not present.

13. Further, the whole genesis of the case of the petitioners linger upon the recommendation made by the revenue authorities for assignment of lands in favour of the petitioners upon collection of necessary market value for the land, towards which the market value has also been assessed, but the said



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recommendation has not been accepted by the 2nd respondent. True it is that the petitioners are enjoying the benefit of the order of stay granted by this Court and are in possession still, but that would not in any way enure to the benefit of the petitioners, when this Court decides the fate of the writ petition one way or the other.

14. The report of the revenue authorities itself reveal that the subject lands are classified as 'cart track', but due to its long occupation by the petitioners by encroaching the lands, the said cart track has not been put to use and an alternative road has been formed due to efflux of time and due to the expansion of the connectivity of roads and formation of new roads. But that will not absolve the said lands from its classification as 'care track'. Further, it is the admitted case of the parties that the land is a Government poramboke land and it is upto the Government to use it in the best possible way for a public purpose. The petitioners, to further their nest, cannot try to scuttle the act of the Government for utilising the land for a public purpose and individual benefit cannot supercede the collective public benefit that would be reaped if the lands are used for a public purpose.



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15. It is the case of the respondents that the subject lands are to be utilized for the purpose of construction of Tambaram Police Commissionerate, for which necessary proposal has emanated from the Deputy Commissioner of Police, Tambaram. Such being the case, the continued stay would definitely be against the larger public interest involved. Further, the petitioners are not able to place before this Court the Revenue Standing Orders under which the petitioners would be entitled for assignment.

16. It is to be pointed out that RSO 15 provides for the persons, who are eligible for assignment, which clearly prescribes that only landless and poor persons, who are likely to engage themselves in direct cultivation shall be eligible for assignment. However, in the case on hand, the land is a valuable land, which does not fall within the cultivable zone, and merely growing of trees in the said land would not bring it within the ambit of cultivable lands. In the case on hand, the petitioners want assignment to be made to them on payment of the value of the lands. It is to be pointed out that the Government is not a vendor to any



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person, who intends to buy lands, but it is the custodian of the Government lands in the larger interest of the public.

17. RSO 15 (5) mandates the lands that could be assigned and the lands that could not be assigned. Grazing grounds, tank beds and lands which are acquired for communal purposes should not be assigned. Further, G.O. Ms. No.1135, Rev. dated 16.3.1962 mandates that no lands within 32 Kms. From Chennai City limits should be assigned. In the case on hand, the subject land is within the area, as prescribed in G.O. Ms. No.1135, Rev. dated 16.3.1962. That being the case, the assignment sought for by the petitioners is not only misconceived, but it is also banned and no authority, much less the 2nd respondent is clothed with any power to grant assignment.

18. Merely because the revenue authorities have recommended to the 2nd respondent for assignment of land on receiving the value of the land and suggested for recommending to the Government would not be a ground to give an affirmative direction to the 2nd respondent to consider the case of the petitioners for assignment of the subject lands. It is to be pointed out that the



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revenue authorities must be abreast of the Revenue Standing Orders and their acts should be in consonance with the Revenue Standing Orders. But the recommendation, which had emanated from the revenue authorities, which is put as a fulcrum to claim assignment from the hands of the Government is wholly untenable and if not for the said recommendation, the petitioners could not have enjoyed the lands for such a long length of time.

19. Further, it was the contention of the petitioners that the only reason the respondents are declining to assign the lands to the petitioners is only for the purpose of alienating the said lands in favour of other individuals. However, the said submission is countered by the learned Addl. Advocate General that the said lands are intended to be used for the purpose of construction of Tambaram Police Commissionerate and further assures that the said land would not be alienated in favour of any individual and it would be used specifically for construction of Tambaram Police Commissionerate or any other public purpose the Government deems fit. While recording the aforesaid submission of the learned Addl. Advocate General, this Court further directs that the aforesaid land could be used for the construction of Tambaram Police Commissionerate and in



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the event it does not fructify, the said lands cannot be alienated in favour of any individual and that the said lands should be used only for purposes, which are in the larger interests of the public.

20. For the reasons aforesaid, this Court finds no error or infirmity in the order impugned herein and, accordingly, these writ petitions fail and they are therefore dismissed with the aforesaid observations and directions. Interim order granted by this Court stands vacated and the said miscellaneous petitions are dismissed. Consequently, other connected miscellaneous petitions are also closed. There shall be no order as to costs.

18.10.2022

Index : Yes / No

Internet : Yes / No

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To



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Revenue Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009.
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M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
W.P. NO.13610 TO 13612 OF 2015**

**Pronounced on
18.10.2022**