



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	PRONOUNCED ON
04.04.2022	29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.14418 OF 2003, 13723 OF 2004,
1635 & 2401 OF 2021

W.P.NO.14418 OF 2003

1. Kiliammal
2. Madurai Muthu
3. Karunakaran
4. Mahalingam
5. Ramadoss
6. Thirunavukkarasu (Deceased)
7. T.Kokila
8. T.Ashokraja
9. T.Ramya
10. T.Rajalakshmi ... Petitioners

(P-7 to P-10 substituted as
LRs of Deceased P-6)

-Vs-

1. The State of Tamil Nadu,
Rep. by its Special Commissioner
and Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
2. The Director of Land Survey
and Settlement,
Chepauk, Chennai - 600 005.



3. The Settlement Officer,
Chepauk, Chennai - 5.

4. The Assistant Settlement Officer,
Chepauk, Chennai - 5,
Tiruvannamalai.

5. The Managing Director,
The Tamil Nadu State Housing Board,
Anna Salai, Nandanam,
Chennai - 9.

6. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 9.

7. Lalithambal (Deceased)

8. Valmurthy

9. N.Jaya

10. Mangathal

11. Suseela

12. Bagirathi

13. S.Ramu

14. Suguna

15. Indira

16. A.K.Sankarprasad

17. A.K.Muthusamy

18. S.Suresh

... Respondents

(RR-16 & 17 substituted as
LRs of deceased R-7)

(R-18 impleaded vide order of
Court dated 23.12.2021 in
W.M.P.No.12319 of 2021)



W.P.NO.13723 OF 2004

1. Bakyarathi
2. D.Suguna
3. G.Indira
4. S.Ramu
5. Jaya @ Jayalakshmi
6. S.Mangatha @ Mangamma
7. Suseela
8. Valmoorthy @ N.Moorthy

... Petitioners

.Vs.

1. The Government of Tamil Nadu
Rep. by Secretary,
The Department of Housing & Urban Development,
Fort St. George,
Chennai - 600 009.
2. The Chairman & Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai - 35.
3. The Special Deputy Collector (LA),
State Housing Board Scheme,
Thirumangalam,
Chennai - 101.
4. The Executive Engineer,
Special Division - I,
State Housing Board Scheme,
Thirumangalam,
Chennai - 101.
5. Lalitha Ammal

... Respondents

W.P.NO.1635 OF 2021

S.Suresh

... Petitioner

.Vs.



1. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2. The Sub Registrar,
Anna Nagar, JJ Complex,
Jawaharlal Nehru Road,
Anna Nagar,
Chennai - 600 040.

3. The Tamil Nadu Housing Board,
Rep. by its Executive Engineer &
Administrative Officer,
Anna Nagar Division,
Thirumangalam,
Chennai - 600 040.

4. S.Ramu

... Respondents

W.P.NO.2401 OF 2021

E.Velu

... Petitioner

.Vs.

1. The Chairman & Managing Director,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai - 600 035.

2. The Executive Engineer,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai - 600 035.

3. The Special Tahsildar (Land Acquisition),
The State Housing Board Schemes,
Nandanam, Anna Salai,
Chennai - 600 035.

4. The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai - 600 028.



5. The Sub Registrar Joint-I,
No.98, Nellukkara Street,
Periya Kanchipuram,
Kanchipuram - 631 501.

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6. V.Rajaram
7. U.Ravi
8. U.Sivakumar
9. U.Vasuki
10. U.Vani
11. Senthil @ S.Yuvaraj
12. Nirmala
13. Ajithkumar
14. Master Sathiyaraj
Rep. by his father & guardian
U.Sivaraj
15. S.Suresh
16. S.Ramu

... Respondents

(Impleaded vide order dated 23/12/2021
made in W.M.P.No.16387 of 2021 in
W.P.No.2401 of 2021)

PRAYER IN W.P.NO.14418 OF 2003:-

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the impugned order on the file of the 1st respondent in R. Dis.(K1) 48926/2000 dated 25.06.2002 and quash the same as illegal, without jurisdiction and forbear the respondents 1 to 6 from disturbing the lawful possession and enjoyment of the petitioners in S.No.207/14A part Koyambedu Village, 1.49 acres.

PRAYER IN W.P.NO.13723 OF 2004:-

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Declaration



declaring that the lands situate in Survey No.207/14 measuring an extent of Acre 1.40 cents situate in Thirumangalam Village, Saidapet Taluk, now Koyambedu village, Egmore-Nungambakkam Taluk, is not covered under Section 4 (1) Notification made in No.II-I 4755/61 dated 1.11.1961 and also under Section 6 Declaration of the Land Acquisition Act made in No.II-I 5058/65 dated 17.11.1965 or any other proceedings pursuant to Section 4 (1) Notification made in No.II-I 4755/61 dated 1.11.1961.

PRAYER IN W.P.NO.1635 OF 2021:-

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records and quash the order dated 22.12.2020 passed by the 2nd respondent and directing the 2nd respondent to release the sale deed dated 22.07.2016 registered as Pending Document No.202 of 2016.

PRAYER IN W.P.NO.2401 OF 2021:-

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 5th respondent dated 19.12.2020 in ref.208/APB/2020 and quash the same and further direct the 5th respondent to register and return the sale deed to the petitioner.

For Petitioners : Mr.Malaichamy
in W.P.No.14418 of 2003

Mr.V.Ramesh
Standing Counsel
For M/s.T.Thiyagarajan
in W.P.No.2401 of 2021

Mr.AR.L.Sundaresan
Standing Counsel
For M/s.K.Surendar
in W.P.No.1635 of 2021

Mr.V.Ayyadurai
Standing Counsel
For Mr.R.Karthikeyan
in W.P.No.13723 of 2004

For Respondents : Mr.R.Shanmugasundaram,
Advocate General
Assisted by



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Ms.A.G.Shakeena,
Standing Counsel
(T.N.H. Board)
For R-5
in W.P.No.14418 of 2003,

For RR-1 & 2
in W.P.No.2401 of 2021,

For R-3
in W.P.No.1635 of 2021,

For RR-2 & 4
in W.P.No.13723 of 2004

Mr.S.Silambanan,
Additional Advocate General
Assisted by
Mr.Yogesh Kannadasan,
Special Government Pleader
For RR-1 to 4 & 6
in W.P.No.14418 of 2003,

For RR-3 to 5
in W.P.No.2401 of 2021,

For RR-1 & 2
in W.P.No.1635 of 2021
&
For RR-1 & 3
in W.P.No.13723 of 2004

Mr.AR.L.Sundaresan
Standing Counsel
For M/s.K.Surendar
For R-18
in W.P.No.14418 of 2003
&
For R-15
in W.P.No.2401 of 2021

Mr.P.Sudalaiyandi
For R-11
in W.P.No.14418 of 2003,

For R-16
in W.P.No.2401 of 2021
&
For R-4
in W.P.No.1635 of 2021



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Mr.N.Dhanasekaran
For RR-17 & 18
in W.P.No.14418 of 2003

Mr.A.Sevendharan
For RR-6 to 12
in W.P.No.2401 of 2021

C O M M O N O R D E R

A span of about 75 years, requiring a Diamond Jubilee celebration has passed since this country attained independence and since then, the laws of this Nation have traversed through a myriad path ultimately culminating in the adoption of the Indian Constitution, and under its aegis, very many laws have been enacted to give life and breathe to the constitutional guarantees that were enshrined for the benefit of the citizens of this great country. Equality has been the hallmark of our constitutional setup which had crystallized in the mind of the architects of the Indian Constitution, and with the avowed object of realizing the constitutional guarantees, many laws were enacted, of which one is in issue before this Court in the form of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1948, (for short 'the Ryotwari Act'), which had gone through amendments in the year 1963. To give impetus to the said Act, Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Rules, 1965 were framed which was followed up with amendment in the year 1976.

2. The necessity for the enactment of the said Act was for the purpose of creating an equality among the citizens in and by which the Zamindari and Mirasi system of holdings were sought to be erased and the land holdings belonging to the said Zamin and Miras were taken over by the Government and passed on over to the persons, who were in possession of the said lands and cultivating the same. In effect, the lands, which vested with the Government on the said enactment coming into force was such of those agricultural lands, which were held by the Zamin over and above the eligible threshold limit. Mainly, the lands under the Zamin, which were termed to be surplus holdings, were taken over by the Government and were assigned to individuals, who were cultivating the said lands under the Zamin.

3. Both under the Hindu Kings and later during the time of the Moghul administration, the status of a cultivating tenant in a village was defined by usage. The cultivating tenant always rendered to the State a portion of the produce of the land varying with the nature of the crop which is called "melwaram" while the share left to the cultivator was known as "kudiwaram".



The words "melwaram" and "kudiwaram" were in vogue in the Tamil country.

4. With a broad outline, as shown above, this Court now turns its eyes to the relief sought for by the respective petitioners in the present case, on the basis of the facts, as showcased by the respective petitioners in their petitions.

5. The petitioners in W.P. No.14418/2003 are aggrieved by the order impugned in and by which the 1st respondent had set aside the settlement patta granted in favour of the petitioners and respondents 8 to 15. To make it more clear and precise, initially, settlement patta was granted in their favour of the petitioners by the Assistant Settlement Officer, Tiruvannamalai, but on revision by respondents 8 to which was set aside by granting settlement patta in favour of respondents 8 to 15.

6. W.P.No.13723/04 has been filed questioning the land acquisition proceedings insofar as the lands in Survey No.207/14 measuring an extent of 1.40 acre situate in Thirumangalam Village, Saidapet Taluk, Koyambedu Village, Egmore-Nungambakkam Taluk as not covered under the Notification issued u/s 4 (1) and the Declaration u/s 6 of the Land Acquisition Act, 1894.

7. W.P.Nos.1635 and 2401 of 2021 have been filed by the petitioners, who are subsequent purchasers of the land, and the sale deeds in connection with the said purchase are pending registration before the 5th respondent and, therefore, prayer is sought for, for a direction to the 5th respondent to register and release the said sale deeds.

8. The facts leading to the filing of the individual writ petitions would be a just necessity for deciding all the cases and they are briefly summarized as under.

FACTS IN W.P.NO.14418 OF 2003

9. It is the case of the petitioners that they are the legal heirs of Late Mudichur Alavattan. The subject property in S.No.207/14 Part of 1.49 acres in Koyambedu Village, Egmore-Nungambakkam Taluk, was purchased through a registered sale deed dated 13.11.1914 in Document No.1703/1914 by Mudichur Alavattan from one Vedammal, wife of Thiruvengadam Pillai to an extent of 3-12-10 cawnies in various pimash numbers, viz., 12, 31, 8, 115, 154, 295, 302, 303, 304, 350, 351 and 538 of Zamin Thirumangalam Village admeasuring an extent of 5.03 acres. It is the further averment of the petitioners that their grandfather, viz., Amavasai, who is the son of Mudichuran Alavattan purchased some lands through registered Document No.1702/1914 from Vedammal to



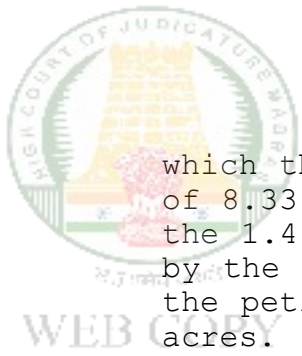
an extent of 3-12-14 in various pimash numbers, viz., 31, 32, etc.

10. It is the further case of the petitioners that the Zamindar of Thirumangalam sold the Thirumangalam Zamin to one Perumal Naidu through document No.935/1917 along with Kudiwaram and Melwaram rights. It is the further case of the petitioners that during 1988, the property of the petitioners was surveyed by the Special Tahsildar, Town survey and the Assistant Director, Survey & Boundary Act, 1923 in respect of the property in S.No.207/14A Part to an extent of 1.49 acres stating that the patta is carried out in favour of the petitioners and any objections to be submitted within 90 days.

11. It is the further case of the petitioners that they applied for ryotwari patta to the Settlement Officer, Thanjavur on 6.9.1991 and the petitioner was directed to approach the Asst. Settlement Officer, Tiruvannamalai, who is the competent authority to issue patta. It is the further stand of the petitioners that they approached the 4th respondent, who, on appreciation of documentary evidence, vide order dated 14.11.1996, directed issuance of patta.

12. It is the further case of the petitioners that respondents 8 to 15, claiming to be owners, through their power agent, one Rajendran, filed revision No.17/1997 before the 3rd respondent by filing fabricated documents, taking advantage of the identical names carried by the great grandfather Alavattan and claimed patta in their names. However, without properly appreciating the documentary evidence and the revenue records and also the uninterrupted possession of the petitioners for several years, the 3rd respondent set aside the order of the 4th respondent, vide order dated 12.6.02 and granted patta in favour of respondents 8 to 15, by rejecting the stand of the Housing Board that they have no locus standi. The revision preferred by the petitioners before the 2nd respondent was dismissed as time barred, but the revision of the respondents 8 to 15 was entertained. The appeal preferred against the said order before the 1st respondent resulted in the passing of the impugned order.

13. It is the averment of the petitioners that the 1st respondent totally misdirected by not appreciating the materials property, which would be evident from the Section 4 (1) Notification in which only 8.33 acres pertaining to the 7th respondent has been notified for acquisition. The revenue authorities, on the basis of the revenue records, are to issue patta. It is the further averment of the petitioners that in respect of S.No.207/14, only to an extent of 8.63 acres, the name of the 7th respondent is shown in the revenue records of



which the 6th respondent has notified acquisition only in respect of 8.33 acres. Therefore, the findings of the 1st respondent that the 1.49 acres, belonging to the petitioners, were also acquired by the 6th respondent is patently erroneous and even as on date, the petitioners are in physical possession and enjoyment of 1.49 acres.

FACTS IN W.P.NO.13723 OF 2004

14. It is the case of the petitioners that their forefather, named Alavattan owned lands in Pimash Nos.350, 351 and 355 to an extent of 0.4.4, 0.94 and 0.4.12 cawnies which were purchased under a registered sale deed dated 13.11.1994 from one Vedammal. Since the date of purchase, the ancestors of the petitioners were in possession and enjoyment of the property, which later came to Amavasai, the son of Alavatten and he was issued Patta No.19 in respect of the said lands.

15. It is the further case of the petitioners that during the settlement proceedings, Pimash No.351 has been renumbered and assigned revenue S.No.270/14 and after the death of Amavasai on 5.2.1943, the lands to the extent of 1.40 acres came to the possession and enjoyment of the sons of Amavasai and the petitioners are the legal heirs of the sons of Amavasai, have been in possession and enjoyment of the said lands.

16. It is the further case of the petitioners that their ancestors, including their parents were raising groundnuts, vegetables and other crops for their livelihood in the said lands and due to rapid industrialization, the places surrounding the petitioners lands were utilized as housing plots.

17. It is the further case of the petitioners that they had executed a power of attorney in favour of one Rajendran and with a view to develop the property, had put up a compound wall around their properties during which time objection was raised by the respondents stating that the lands belonged to the Housing Board by way of acquisition which prompted the petitioners to make searching enquiries, which revealed the issuance of Notification u/s 4 (1), which was published on 01.11.1961 in respect of S. No.270/14 for an extent of 8.33 Acres standing in the name of the 5th respondent. However, during the enquiry u/s 5-A and publication of Declaration u/s 6 of the Land Acquisition Act, an extent of 10.03 acres have been shown, which included the lands held in the name of the petitioners, though the petitioners nor their ancestors, including their father were noticed at the time of Notification or Enquiry and their names did not reflect in any of the acquisition proceedings.



18. It is the further stand of the petitioners that the said Rajendran, viz., their power agent, had filed W.P.No.2409/1992 questioning the acquisition proceedings in his individual capacity, which resulted in the cancellation of the power given to the said Rajendran. Though the petitioners filed miscellaneous petition to implead themselves as party in the said writ petition through another power of attorney, however, the writ petition was dismissed, against which the writ appeals were filed but the same was dismissed as withdrawn giving liberty to take suitable proceedings to challenge the inclusion of the lands in the award.

19. It is the further stand of the petitioners that in view of the aforesaid liberty, the present petition has been filed on the ground that the respondents are trying to interfere with their peaceful possession and enjoyment of the properties in question on the premise that the lands were included and acquired in the proceedings, which were initiated as early as in the year 1961.

W.P.NO.1635 OF 2021

20. It is the case of the petitioner that the lands admeasuring 1.51 acres, situated at Koyambedu Village, Chennai, was acquired by the petitioner by way of sale deed dated 22.7.2016 bearing Pending Doc.No.202 of 2016 on the file of the 2nd respondent. It is the case of the petitioner that the Sub Registrar, during the year 2014, refused to receive the sale deed executed by the petitioner's vendors for registration, which resulted in the filing of W.P.No.22983 of 2014, wherein this Court directed the Sub Registrar to receive the sale deed and complete the registration formalities by order dated 5.9.2014. However, due to certain difficulties the sale could not be taken to its logical conclusion. However, the sale has been completed vide sale deed dated 22.7.16, which is pending before the 2nd respondent and the 2nd respondent has passed the impugned order dated 22.12.20 refusing to release the document on the ground that Tamil Nadu Housing Board has raised an adverse claim with regard to the above property. Seeking the aforesaid relief of release of the sale deed, the present petition is filed.

W.P.NO.2401 OF 2021

21. It is the case of the petitioner the subject land in the present S. No.207/14 Part was initially purchased by one Appu, who is the grandfather of respondents 6 to 14 herein vide sale deed dated 13.11.1914 bearing document No.1701/14, which,



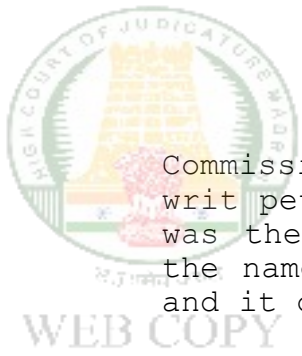
after the demise of the said Appu and his legal heirs, viz., her daughters, devolved on respondents 6 to 14 as the legal heirs of the deceased daughters of Appu.

22. It is the further case of the petitioners that vast extent of lands were acquired by respondents 1 to 3 in Thirumangalam Village in which S.No.207/14 also formed a part, which belonged to one Lalithammal. However, the extent quoted in the Notification issued u/s 4 (1) was at variance with the extent quoted in the Declaration u/s 6 of the Land Acquisition Act. The award deals with several survey numbers and insofar as Survey No.207/14 part, only an extent of 10.03 acres was acquired. Though Section 4 (1) Notification notified acquisition of 8.33 acres of land, which belonged to Lalithammal, however, it was later increased to 10.03 acres in the Declaration issued u/s 6 in respect of Survey No.207/14 Part. Though the total extent of land u/s 207/14 is to the extent of 12.90 acres, however, the Notification u/s 4 (1) and the Declaration u/s 6 are silent with regard to the balance portion of land, which clearly shows that the said lands were not acquired, which extent is about 1.35 acres.

23. It is the further case of the petitioner that the lands to the extent of 1.35 acres, which was part of the land originally purchased by Appu was succeeded to by respondents 6 to 14, who are in possession and enjoyment of the same, which falls in Survey No.207/14 Part. Based on the said title, interest and entries in the revenue records, the petitioner purchased the property by entering into the sale deed dated 6.12.2020 bearing Pending Document No.208/2020 before the Sub Registrar's Office, Kancheepuram by paying a huge sale consideration of approximately Rs.25 Crores in exclusion of stamp duty and registration charges. However, the registration of the sale deed was refused and returned u/s 71 of the Registration Act.

24. It is the further case of the petitioner that since the document was admitted for registration, appeal u/s 72 of the Registration Act before the Inspector General of Registration would not be maintainable. It is the further averment of the petitioner that the petitioner derives valid title based on the sale deeds entered into between Appu and his vendor as also the Notification and Declaration u/s 4 (1) and 6 of the Act, which clearly shows that Survey No.207/14 Part does not form part of the acquisition process.

25. It is the further case of the petitioner that the claim laid by the third parties on the land of Lalithammal on the basis of the orders passed by the Assistant Settlement Officer and Settlement Officer were set aside by the Special



Commissioner & Commissioner of Land Administration. In those writ petitions, the Housing Board is a party and the land, which was the subject matter of proceedings are lands which stood in the name of Lalithammal, which was for an extent of 10.03 acres and it does not relate to the lands of respondents 6 to 14.

26. It is the further case of the petitioner that the various communications emanated between the petitioner, the Special Tahsildar (Land Acquisition) and the officials of the Tamil Nadu Housing Board clearly reveal that an extent of 1.02 acres was never the subject matter of acquisition under the land acquisition proceedings and the said land belonged to respondents 6 to 14, which was lawfully sold to the petitioner herein. When the Housing Board itself has categorically stated that the said lands to an extent of 1.02 acres have not been acquired in the acquisition proceedings, the title of respondents 6 to 14, who are the vendors of the petitioner, subsists. In the above backdrop, the petitioner having purchased the lands from respondents 6 to 14, who were holding valid title by paying huge sale consideration, the act of the 5th respondent in not registering and releasing the sale deed is wholly unsustainable.

27. Learned counsel appearing for the petitioners in W.P.No.14418 of 2003 submitted that their grandfather, Mudichur Alavattan purchased the property from Vedammal through sale deed Doc.No.1703 of 1914 dated 13.11.1914. The said property had devolved upon the petitioners as they are the legal heirs of Amavasi, who is the son of Mudichur Alavattan. It is the further submission of the learned counsel for the petitioners that in the year 1996, the petitioners 1 to 6 and 8 other persons applied for issuance of ryotwari patta before the 4th respondent, viz., Assistant Settlement Officer, Tiruvannamalai under the Tamil Nadu Estate (Abolition & Conversion into Ryotwari) Act, 1948 (for short 'Ryotwari Act') and after conducting enquiry and field verification, patta was granted in favour of the petitioners.

28. It is the submission of the learned counsel for the petitioners that upon proper verification of documents, the petitioners were granted patta by the 4th respondent, which was cancelled by the 3rd respondent, at the instance of the 5th respondent, Housing Board and patta was granted in favour of respondents 8 to 15. It is the further submission of the learned counsel that the order of the 3rd respondent suffers from very many infirmities, as no documentary evidence was taken into consideration and merely on the basis of the fact that the respondents 8 to 15 claimed to be the legal heirs of Amavasi, the son of Mudichur Alavattan, the 3rd respondent held that the grandfather of the petitioners, viz., Mudichur Alavattan is not



the person, who had purchased the property from Vedammal and that the grandfather of respondents, viz., Mudichur Alavattan is the person, who had purchased the property from Vedammal.

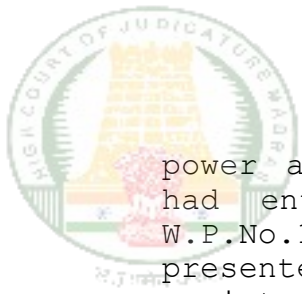
29. It is the submission of the learned counsel that the 3rd respondent cannot render such a finding as the said authority is not vested with any jurisdiction to decide the authenticity of one descendants from that of the other descendants. It is the further submission of the learned counsel that there are no materials to differ with the findings arrived at by the 4th respondent to come to a conclusion that Mudichur Alavattan, the ancestor of the petitioner is not the person, who had purchased the lands from Vedammal.

30. It is the further submission of the learned counsel that the lands, which were acquired were only to the extent of 8.63 acres, which stood in the name of Lalithambal and the lands to the extent of 1.49 acres was not at all notified for acquisition and the 1st respondent misconstrued and misguided herself without properly perusing the title deeds and revenue records and failed to properly consider the provisions of the Madras Estate Abolition and Conversion into Ryotwari Act, 1948 in and by which the petitioners are entitled for patta u/s 11 (a) of the Tamil Nadu Estate (Abolition & Conversion into Ryotwari) Act, 1948.

31. It is the further submission of the learned counsel that though acquisition was only to the extent of 8.33 acres which was held by the 7th respondent, Lalithammal, which is evident from the counter filed in W.P.No.2409/1992, and only an extent of 8.63 acres of land was held in the name of the 7th respondent, and inspite of the stand of the 7th respondent that she owned only 8.63 acres of land in survey No.207/14, yet, at the time of issuance of Declaration u/s 6 of the Act, the total extent of 10.03 acres was notified which included both survey No.207/14 and 207/14 Part.

32. It is the further submission of the learned counsel that even as on date, the petitioners are in physical possession of the 1.49 acres of the land. It is the further submission of the learned counsel that the right and title of the petitioners to the property is the subject matter of the suit in C.S.No.1997, which has since been transferred to the City Civil Court, Chennai, and renumbered as O.S.No.943 of 2011, which is pending in which respondents 5 and 8 to 15 are parties to the said suit.

33. It is the further submission of the learned counsel that the power given to one Ramanathan by the petitioners 2 to 6 for the purpose of improving the suit property, but the said



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power agent, in detriment to the interest of the petitioners, had entered into sale transaction with the petitioner in W.P.No.1635/2021, which has resulted in the document being presented for registration and the petition has been filed for registering and releasing the said document.

34. It is the further submission of the learned counsel that the petitioners in W.P.No.13723/04 had earlier filed W.P.No.11783/04 in which no stay was granted. However, in view of obtaining stay in W.P.No.13723/04, respondents 8 to 15 have withdrawn W.P.No.11783/04.

35. It is the further submission of the learned counsel that there are very many pending litigations between the inter se parties, which has led to the filing of the suits and knowing very well about the pendency of the suits, one or other authority had granted patta in favour of the rival claimants, inspite of objection and the patta standing in the name of the petitioners. It is therefore submitted that the 1st respondent has not properly appreciated the aforesaid materials and has cancelled the patta issued by the Assistant Settlement Officer, which is wholly illegal, arbitrary, perverse and vitiated by fraud perpetuated by the respondents herein and, therefore, the impugned order deserves to be set aside while reviving the order passed by the 4th respondent.

36. Learned counsel appearing for the petitioners in W.P.No.13723/04 submit that the petitioners claim arise on the basis of the registered sale deed dated 13.11.94 entered into by the paternal great grandfather of the petitioner, viz., Alavattan from one Vedammal, wife of Thiruvengadam Pillai and that he was in actual enjoyment of the said property and patta has also been issued in favour of the petitioners, who are the legal heirs of Amavasai, the son of Alavattan.

37. It is the further submission of the learned senior counsel that the physical possession of the petitioners has been recognized by the judicial order passed in O.A.No.794/1997 in C.S.No.737/1997 dated 12.7.1999. The challenge has been made to the Declaration u/s 6 of the Act, which has been issued pursuant to the Notification u/s 4(1) wherein, it is submitted by the learned senior counsel, that the extent of 1.49 acres, which is in possession and occupation of the petitioners, were not notified for acquisition u/s 4 (1). However, erroneously, the same was also published while publishing the Declaration u/s 6 of the Act. It is the further submission of the learned senior counsel that Lalithammal, is the owner of only an extent of 8.63 acres in Survey No.207/14 and that while issuing Notification u/s 4 (1), dated 1.11.1961, only an extent of 8.33 acres in the name of the Lalithammal was notified for acquisition. However,

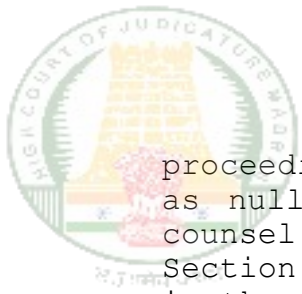


while issuing the gazette publication and issuing Declaration u/s 6, dated 17.11.1965, an extent of 10.03 acres has been shown as being acquired and pursuant to the enquiry u/s 5A, award was also passed on 25.2.1967 while culminated in the handing over possession of the entire extent to the requisitioning body, viz., the Tamil Nadu Housing Board on 2.3.1967. It is the further submission of the learned senior counsel that compensation has been paid for the entire extent of 10.03 acres to Lalithammal.

38. It is the submission of the learned senior counsel that while W.P.No.14418/03 has been filed by the rival claimants assailing the cancellation of patta passed by the Special Commissioner and Commissioner of Land Administration in the settlement proceedings, W.P.No.1635/21 has been filed by the subsequent purchaser under the petitioners in W.P.No.14418/03 for a direction to register the sale deed and release the same with a further directions not to encumber the properties until final decision is taken in regard to the title dispute which is the subject matter of the suit. Learned senior counsel further submitted that one other writ petition in W.P.No.2401/2021 has been filed by third parties claiming right over the subject properties by making a clarification as to the paimash No.351 corresponding to survey No.207/14 by contending that the said paimash No.351 has got a larger extent of property as belonging to Lalithammal and that the said petitioner has purchased totally different property other than the properties involved in the present proceedings.

39. It is the further submission of the learned senior counsel that originally Paimash No.351 corresponding to Survey No.207/14 and the great grandfather of the petitioners, viz., Alavattan purchased an extent of 0.9.4 Kaani, which is equivalent to 1.40 acres. It is the further submission of the learned senior counsel that the petitioners were put in dark about the impugned land acquisition proceedings despite they being the owners and have been in actual possession and enjoyment of the subject property. It is the further submission of the learned senior counsel that only in the year 1991, when they took steps to construct a compound wall with reference to the subject property, they came to know about the acquisition by the Tamil Nadu Housing Board.

40. It is the further submission of the learned senior counsel that the petitioners earlier appointed one Rajendran as power agent, who took steps by filing the writ petition challenging the acquisition proceedings, however, in his individual capacity, mainly on the ground that there was no notification u/s 4 (1) of the Act with regard to the lands of the petitioners and, therefore, the entire acquisition



proceedings culminating in the award No.5 of 1967 to be declared as null and void. It is the submission of the learned senior counsel that there was discrepancy in the extent notified in Section 4 (1) and Section 6 Declaration and in the counter filed in the said writ petition, the respondents therein had submitted that though only 8.63 is shown in the revenue records pertaining to S.No.207/14, however, the extent of 10.03 acres was adopted on the basis of the records of the tentative area list and fair area list of the then Assistant Settlement Officer's Office and on the basis of the records held at the office of the Assistant Settlement Officer, award was passed for the extent of 10.03 acres was paid to to Lalithammal. It is the submission of the learned senior counsel that the authorities have not properly verified the revenue records pertaining to the subject lands but had been guided by entries in the Inam Fair Register maintained at the time of settlement proceedings, which has resulted in the omission that the petitioners are the real owner of the subject property.

41. It is the submission of the learned senior counsel that the error which has occurred due to the improper verification of the revenue records resulting in the acquiring of lands of the petitioners and payment of compensation to Lalithammal cannot be saved citing payment of compensation to Lalithammal. It is the further submission of the learned senior counsel that there was no notification u/s 4 (1) for the entire extent of 10.03 acres and, therefore, the extent published in the Declaration u/s 6 and the consequential award would stand vitiated.

42. It is the further submission of the learned senior counsel that the earlier round of writ petition in W.P.No.2409 of 1992 was filed by the power of attorney holder in his individual capacity, which was dismissed on 28.6.2001 on the ground of locus standi of the petitioner therein to question the acquisition proceedings and also on the ground of inordinate delay. Against the findings rendered in the said writ petition, the petitioners had preferred appeal in W.A. Nos.1565 and 1721 of 2001 in which liberty has been given to the petitioners to file a fresh writ petition raising all the grounds available notwithstanding the findings recorded by the learned Judge in W.P.No.2409 of 1992.

43. It is the submission of the learned senior counsel that the illegality that had crept in, since the inception, viz., the issuance of Section 4 (1) Notification, showing the acquisition in respect of a lesser portion of land vis-à-vis the Declaration u/s 6, cannot in any way be cured and non-compliance of the said mandatory requirement goes to the root of the matter, rendering the impugned acquisition invalid and it is clearly violative of the right under Article 300A of the Constitution. The



non-inclusion of the lands of the petitioners in the Notification u/s 4 (1) had denied the petitioners of a right of hearing u/s 5-A of the Act.

44. It is the further submission of the learned senior counsel that the rights of the parties already being sub judice before the Civil Court in O.S.No.3247 of 2008 on the file of the XIX City Civil Court, Chennai, in which the Housing Board is also a party, the rights of the parties to the lis has to be adjudicated before the Civil Court in the suit. However, for the present, the acquisition proceedings are wholly null and void in view of the infraction of the mandatory requirement u/s 4 (1) of the Act and denial of a right to participate in the enquiry u/s 5-A of the Act and the notification also suffers as regards the extent of the lands notified therein.

45. It is the further submission of the learned senior counsel that the petitioners in W.P.No.14418 of 2003 as also the subsequent purchasers under them in W.P.No.1635 had not challenged the impugned land acquisition proceedings and without challenging the said acquisition proceedings and getting an order in their favour, neither they can claim any relief nor this Court can grant any relief to the petitioners, more so at this stage, especially in the light of the pending suit.

46. It is therefore the submission of the learned senior counsel that what is required to be considered herein is the validity of the impugned land acquisition proceedings and not the right of the parties to patta, which can be decided only after a decision is given in the suit. For the present, the acquisition of lands to the extent of 10.03 acres, which has not been notified in the notification u/s 4(1) alone being subject to dispute, which stands vitiated in view of the Declaration u/s 6, necessarily this Court has to strike down the acquisition proceedings and answer the issue in favour of the petitioners in W.P. No.13723/04 and insofar as the other reliefs are concerned, all the parties have to be relegated to the civil court to agitate their rights in the pending suit.

47. It is the further submission of the learned senior counsel that insofar as the vesting of the lands in terms of the Ryotwari Act on the basis of the notification in G.O.Ms.No.3157 dated 3.1.1951 is concerned, as per the revenue settlement introduced on 3.2.1950 and entries in the 'A' Register, the same disclose Lalithammal and other petitioners, it is submitted that in the counter filed by the respondents in W.P.No.2409 of 1992, it has been categorically stated that the acquisition notification has been issued on the basis of the entries in the Inam Fair Register and not based on the revenue records. It is the submission of the learned senior counsel that patta has been



issued in favour of the petitioners by the revenue authorities and the physical possession of the petitioners have been recognized in the order in W.P.No.2409/1992 and that being the case, the petitioners are entitled for being heard in the enquiry u/s 5-A, which is a mandatory requirement and non-compliance of the said mandatory condition renders the notification vitiated and the same deserves to be quashed.

48. Learned senior counsel appearing for the petitioner placed reliance on the following decisions :-

- i) H.D.Vora - Vs - State of Maharashtra (1984 (2) SCC 337);
- ii) P.C.Thanikavelu - Vs - The Special Deputy Collector for Land Acquisition & Anr. (1989 (1) LW 232 - FB);
- iii) Muthuswamy & Ors. - Vs - Stte of Tamil Nadu (1993 (1) MLJ 217);
- iv) Competent Authority - Vs - Barangore Jute Factory & Ors. (2005 (13) SCC 477);
- v) D.B.Basnett (Decd.) Thro' LRs - Vs - Collector, East District, Gangtok & Anr. (2020 (4) SCC 572);
- vi) Tamil Nadu Housing Board - Vs - S.Doraisamy (2020 (2) CTC 670); and
- vii) Vallmoorthi & Ors. - Vs - The Special Commissioner & Commissioner of Land Administration & Ors. (W.P.No.24792 of 2002 - Dated 12.03.2020)

49. Insofar as W.P.No.2401 of 2021 is concerned, learned counsel appearing for the petitioner submits that the petitioner had purchased lands admeasuring 1.51 acres comprised in Survey No.207/14 part, T.S.Nos.93 and 148, Pimash Nos.350, 351 and 355 of Koyambedu Village and the said sale deed, when presented for registration before the Sub Registrar, Anna Nagar, the 2nd respondent in the writ petition, the same was received and assigned pending Document No.202 of 2016. However, till date, the same has not been registered and the impugned order has been passed citing that the Tamil Nadu Housing Board has raised an adverse claim over the subject land, against which challenge is made. It is the further submission of the learned senior counsel that the registering authority is bound to register the document presented to him and the registering authority is not in any way required to venture into the legality of the transaction or the title of the persons to the property. Therefore, the act on the



part of the registering authority in holding the document is wholly arbitrary and unsustainable and deserves interference.

50. Insofar as the writ petitions in W.P. No.1635 of 2021, learned counsel appearing for the petitioner submits that the whole issue in which there exists a dispute with regard to the ownership of the lands to the extent of 1.49 acres between the petitioners in W.P.No.14418/03 and 13723/04, is in no way connected with the lands claimed by the petitioner in the present petition. It is the submission of the learned counsel that the lands, which were originally held by Appu to a total extent of 1 acre and 85 cents, an extent of 58 cents in pimash Nos.331 and 332 was sold to one Karpagambal and Lalithambal succeeded the said Karpagambal. The balance area to an extent of 1.02 acres was in possession of Appu, which got devolved on his legal heirs, viz., his daughters and son whereinafter, the petitioners, who are the legal heirs of the daughters and son had become entitled to the property and that they are in absolute possessin and enjoyment of the lands as descendants of Appu.

51. It is the submission of the learned counsel that the said extent of 1.02 acres is in no way connected with the claim made by the petitioners in W.P.Nos.14418/03 and 13723/04. It is the further submission of the learned counsel that the pimash Nos.350, 351 and 355 to which correlation is made to S.No.207/14 is in no way connected with the lands to which the petitioner claims title as the same is covered under pimash Nos.331 and 332, which would be evident from the order passed by the Revenue Divisional Officer in the application filed by the Housing Board for cancellation of patta standing in the name of the petitioner. It is the further submission of the learned counsel that even according to the Housing Board, acquisition has been made only insofar as 10.03 acres, on the basis of the Notification and Declaration u/s 4 (1) and 6 and the said fact has also been admitted by the Housing Board in its communication dated 15.5.2019 and, therefore, no acquisition has been made with regard to 1.02 acres. Therefore, the sale deed submitted for registration deserves to be registered and released to the petitioner.

52. Learned Advocate General appearing for the Housing Board submitted that vide the acquisition proceedings, the an extent of about 193 acres of lands were sought to be acquired out of which 11.05 acres, which stood in the name of Lalithammal also formed part of the acquisition process. The said Lalithammal accepted the compensation paid by the Housing Board, and to that end, award in Award No.4/67 was passed in respect of an extent of 10.03 acres and Award No.5/67 was passed in respect



of an extent of 1.02 acres and physical possession of the property was taken by the Housing Board on 2.3.1967.

53. It is the further submission of the learned Advocate General that the total extent of lands fell under two sub-divided survey numbers, viz., S.No.s207/14A and 14B out of which 9.56 acres was utilized by the Housing Board and remaining extent of 1.49 acres is still in possession of the Housing Board. Some of the petitioners filed claim for patta before the Assistant Settlement Officer, Tiruvannamalai in the year 1996 and without notice to the Tamil Nadu Housing Board, in which claim the Housing Board was not shown as a party, patta was granted vide proceedings dated 14.11.1996.

54. It is the further submission of the learned Advocate General that pursuant to obtaining knowledge about the grant of patta, revision petitions were filed by the Housing Board and the rival petitioners, viz., Natesan, Swaminathan, etc. in the year 1997 in which, by order dated 10.3.2000, the Settlement Officer cancelled the patta granted to Madurai Muthu and others and granted patta to Natesan, Swaminathan, etc. and the claim of the Housing Board was also rejected. Against the said grant of patta, the revision petition filed by the Housing Board resulted in the impugned order being passed by the Special Commissioner and Commissioner for Land Administration on 25.6.2002.

55. It is the further submission of the learned Advocate General that the very same petitioners had filed O.A.No.794/97 in C.S.No.737/97, which was dismissed citing that the petitioners had come before the court with unclean hands. It is further submitted by the learned counsel that W.P.No.11783/04 was filed by one of the petitioners herein, which was also dismissed as withdrawn by order dated 14.6.04, which is subsequent to the order passed in W.P.No.2409/1992. Similarly W.P.No.7258/17 filed by one of the legal heir of Krishnan had also been dismissed as withdrawn by order dated 12.3.20 with liberty to the petitioner to work out the remedy before appropriate forum.

56. It is the further submission of the learned Advocate General that knowing very well that there are rival claims made with regard to the title to the property, petitioners in W.P.No.14418/03 had entered into a partition and, thereafter, entered into a sale transaction in the year 2016, which had resultantly fructified only in the year 2021, due to which W.P.No.1635/21 had been filed by the subsequent purchaser. The act of the petitioners is nothing but creating further encumbrances only with a view to protract the proceedings.



57. It is the further submission of the learned Advocate General that the Tahsildar, Aminjikarai Taluk, Chennai, knowing that there are pending court cases and that the lands have been acquired by the Housing Board and are in possession of the Housing Board, had issued patta for the lands in S.No.207/14A Part and S.No.207/14 Part to one Rajaram, who is the vendor of the petitioner in W.P.No.2401/21, on that ground that he is the legal heir of Appu, the person, who is alleged to have bought the property from Vedammal. The appeal filed against the grant of patta before the Revenue Divisional Officer has resulted in being rejected against which the Housing Board preferred revision before the District Revenue Officer in which stay has been granted vide order dated 2.2.21. Due to the grant of the fraudulent patta by the Tahsildar, Aminjikarai Taluk, the said Rajaram had sold the property to the petitioner in W.P.No.2401/21 and the said petition has been filed for a direction to register the sale deed and return the sale deed. The said sale transaction had been done on 6.12.20.

58. It is the further submission of the learned Advocate General that the subsequent encumbrance having been granted by the petitioners cannot be put against the Housing Board as the acquisition had taken place almost six decades back and, therefore, it is not open to the petitioners, who are not the title holders, to sell the property and any sale effected by fraudulent means cannot be put against the Housing Board and, therefore, the subsequent purchasers cannot claim any right in the property and, therefore, cannot seek registration of the sale deed.

59. It is therefore the submission of the learned Advocate General that the entire compensation amount having been paid to Lalithammal and the earlier round of litigation having attained finality by the petitioners withdrawing the appeal, the petitioners are stopped from canvassing the same relief as the same is barred by res judicata. Therefore, learned Advocate General prays for dismissal of all the petitions.

60. Learned counsel appearing for respondents 16 and 17, who are the legal heirs of the 6th respondent, viz., Lalithammal, whose lands were acquired and who had received the compensation, submitted that the lands, which have been acquired belonged to the 6th respondent, viz., Lalithammal and the 6th respondent, accepted the acquisition, participated in the enquiry and received the award amount and the respondents, 16 and 17, who are the legal heirs of the said Lalithammal have no quarrel or qualms over the acquisition process and the payment of compensation. It is the submission of the learned counsel that the claim of the petitioners with regard to title to the land is wholly frivolous and unsustainable as the revenue records were



in the name of the 6th respondent and based on the title documents, compensation was paid. Therefore, it is submitted that the present petitions deserve to be dismissed.

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

62. The points that require determination by this Court in the present petitions are :-

- i) Whether the lands, which are ryoti lands, still maintain the character of ryoti lands, which permit the Assistant Settlement Officer/Settlement Officer under the Ryotwari Act to grant ryotwari patta;
- ii) Whether in the absence of establishing the pre-existing rights of their ancestors, could the petitioners claim existing right to the property and, thereby, seek issuance of ryotwari patta;
- iii) Whether the landholder could convey the property by way of sale to third parties without obtaining ryotwari patta (title), when the lands have vested with the Government upon enactment of the Tamil Nadu Estate Land Act, 1908 and the subsequent Ryotwari Acts;
- iv) Whether the present petition is barred by res judicata;
- v) Whether even after a passage of more than seven decades since the enactment of the Ryotwari Act, does any useful purpose is served by retaining the said Act, for the issuance of patta by the authorities prescribed under the Act.

63. Since the issues 1 to 4 are interconnected, so also the case of the petitioners in W.P. Nos.14418/03, 13723/04 and 2401/21, all the issues are taken up together for being dealt with in unison.

64. Three persons, viz., the petitioners in W.P.Nos.14418/03 and 13723/04 and the vendor of the petitioner in W.P.No.2401/21 claim the property through a transaction of sale with one Vedammal, wife of Thiruvengadam. While the petitioners in W.P.Nos.14418/03 and 13723/04 claim on the basis of an alleged document, viz., Doc. No.1703/1914, the vendor of



the petitioner in W.P.No.2401/21 claim on the basis of the alleged document, viz., Doc.No.1701/1914. The purchasers claim their title, as aforesaid, on the basis of the respective documents. The said lands stood vested with the Government on the enactment of the Ryotwari Act, which has since been acquired by the Housing Board.

65. The extent of lands claimed by the petitioners are different, viz., to the extent of 1.49 acres and 1.02 acres respectively. The fact remains that the lands to the extent of 8.33 acres were notified for acquisition vide the Notification under Section 4 (1) of the Land Acquisition Act on 1.11.1961 and Declaration u/s 6 of the Act was issued in the year 1965. Even according to all the above petitioners, their ancestors had purchased the property in the year 1914 and they had been in possession and enjoyment of the lands all along.

66. It cannot be disputed by the parties as to the lands not being ryoti lands, as the petitioners in W.P.Nos.14418/03 and 13723/04 had approached the Settlement Officer/Assistant Settlement Officer for grant of ryotwari patta as it is only those officers, who could grant patta in respect of the ryoti lands.

67. The patta being granted pertains to ryoti lands and, therefore, the lands should satisfy the character of ryoti lands to be eligible for ryotwari patta by the competent authority. To appreciate the case better, it is necessary to refer to the meaning of the expression 'ryot' and 'ryoti land' as defined under Sections 3 (15) and (16) of the Tamil Nadu Estate Land Act, 1908, which expression has been adopted in the Tamil Nadu Inam Estates (Abolition & Conversion into Ryotwari) Act, 1948 as well as 1963 and for better appreciation, the same is quoted hereunder :-

"3.

(15) "Ryot" - "Ryot" means a person who holds for the purpose of agriculture ryoti land in an estate on condition of paying to the landholder the rent which is legally due upon it.

Explanation. - A person who has occupied ryoti land for a continuous period of twelve years shall be deemed to be a ryot for all the purposes of this Act.

(16) "Ryoti Land"- "Ryoti Land" means cultivable land in an estate other than private land but does not include :



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(a) beds and bunds of tanks and of supply, drainage, surplus or irrigation channels;

(b) threshing-floor, cattle-stands, village-sites and other lands situated in any estate which are set apart for the common use of the villagers;

(c) lands granted on service tenure either free of rent or on favourable rates of rent if granted before the passing of this Act or free of rent or granted after the date, so long as the services tenure subsist."

68. From the above definition of ryoti land what transpires is the fact that the lands should be cultivable land within the estate. Respective rights would accrue to the individuals only on the lands being classified as ryoti lands. From the above, it is amply evident that the land should not only have the character of cultivable lands and should be cultivable. It is borne out by record that the petitioners in W.P.Nos.14418/03 and 13723/04 have approached the competent authority under the Ryotiwari Act for grant of ryotwari patta. This clearly establishes the fact that the lands are ryotwari lands, which alone will vests jurisdiction on the competent authority under the Ryotwari Act to grant ryotwari patta. Therefore, from the above provision of law, it is not only incumbent on the part of the parties to prove title to the property, but in addition to title, the parties ought to prove that the said lands have been under cultivation or are cultivable lands. In essence, the parties have title to the property and the lands are agricultural lands.

69. Be that as it may. This court would first go into the contentions raised by the petitioners in W.P.No.13723/04 with regard to the legality of the acquisition, in the wake of the discrepancies between the extent mentioned in the Notification issued u/s 4 (1) vis-à-vis Section 6 Declaration.

70. The crux of the argument of the learned senior counsel for the petitioners in W.P.No.13723/04 is that there being discrepancy between the extent notified u/s 4 (1) vis-à-vis Section 6 Declaration, the said discrepancy vitiates the acquisition proceedings insofar as the subject lands of the petitioners are concerned and, therefore, the same requires to be interfered with.

71. It is to be pointed out at this juncture that W.P.No.2409/1992 was filed by one Rajendran, who was the power of attorney of the petitioners in W.P.No.13723/04. The said petition was filed raising the very same grounds and similar



contentions, as are put forth in the present case, were raised before the learned single Judge. However, maintainability of the petition was raised by the respondents therein on the ground that the petitioner has filed the petition in his individual capacity and not as power of attorney for the petitioners in W.P.No.13723/04. To cure the said defect, miscellaneous petition was filed to bring the petitioners in W.P.No.13723/04 on record to agitate their rights.

72. Learned single Judge of this Court, (E.Padmanabhan, J., as His Lordship then was), dealt in detail with all the contentions raised therein and rejected the miscellaneous petition to bring the petitioners in W.P.No.13723/04 on record, on the ground that the main writ petition itself has been filed after a lapse of thirty five years from the acquisition proceedings and vesting of the property. The learned Judge further held that after a lapse of ten years from the date of filing of the petition, the petitioner therein cannot be allowed to substitute others and claim that he has filed the writ petition on their behalf in the capacity of power of attorney, as there is no averment in the whole of the petition to give any inkling that the petitioner, acting as power of attorney for the land owners had filed the petition to agitate their rights.

73. In the said decision, the learned Judge has given a categorical finding that there is a discrepancy between the Notification u/s 4 (1) and the Declaration u/s 6 as regard the extent of area notified for acquisition. However, the learned Judge had gone on to hold that Lalithammal was the owner of the lands and had accepted the acquisition proceedings and had also received the compensation in respect of her entire holding in the said survey No.207/14 Part and 207/14A, which also includes the discrepant portion, as evidenced between the Notification u/s 4 (1) and the Declaration u/s 6. Once the owner has accepted the compensation without any demur and in full satisfaction, none other than the said Lalithammal could challenge the said acquisition. It has been further held by the learned Judge that as on the date of the acquisition proceedings, the person interested is Lalithammal and the said Lalithammal having waived her rights in respect of the extended extent of lands, which has been published u/s 6, the petitioner therein was not entitled to challenge the same, more so after a lapse of three decades then.

74. The learned Judge has further held that the acquisition proceedings having attained finality way back in the year 1967 immediately after passing of the award, the petitioner therein cannot challenge the acquisition at a belated point of time and further it was also held that the attempt on the part of the petitioner and the third parties to claim that they are entitled to a portion of the land and, therefore, such portion of the



land is not the subject matter of acquisition also cannot be gone into in a writ petition, as they pertain to a disputed question of title as well as possession.

75. The learned Judge has further held that if the petitioner therein has any grievance with regard to the acquisition of lands either of himself or his principals, in the wake of denial of title, the remedy of writ is a misconception as it pertains to a disputed question of title or possession and cannot be gone into in a writ petition.

76. In essence, the learned Judge has not only held that the writ petition is not maintainable, but has further gone into the merits of the contentions with regard to the acquisition and negated all the contentions raised on behalf of the petitioner therein, while holding that the owner of the lands, viz., Lalithammal, on the date of acquisition, has accepted the compensation and waived her right and, therefore, the same cannot be agitated by other parties, after a long and belated period of time, that too on the disputed question of title.

77. Assailing the said judgment, the petitioner therein, as also the petitioners herein, viz., the petitioners in W.P.No.13723/04 had filed W.A.Nos.1565 and 1721/2001 and the Division Bench of this Court, vide order dated 23.04.2004 had permitted the appellants to withdraw the appeals and dismissed the same by permitting the appellants to take suitable proceedings. It is to be pointed out that the Division Bench had also not gone into the issue of title, holding that the same cannot be agitated or decided in a writ petition.

78. By virtue of the said liberty, the present W.P.No.13723/04 has been filed by the petitioners, who were the appellants 2 to 16 in W.A. No.1721/01, by raising the very same plea with regard to the discrepancy in the extent between the Notification u/s 4 (1) and the Declaration u/s 6 of the Act.

79. Before going any further on this aspect, it would be necessary to extract the relevant portion of the order of the Division Bench granting liberty to the appellants, which is as under :-

"2. We are not going into the said dispute, as the same cannot be gone into in this proceedings. It is for the parties to work out their dispute before the appropriate forum. For the purpose of disposing the appeals, it is enough to mention, in view of the submission made by the learned counsel for the appellants, that the lands in question were not the subject matter of acquisition, but they



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were wrongly added at the stage of the award. On that basis, they were the learned counsel submitted that they may be permitted to withdraw the writ appeals and take suitable proceedings to challenge the inclusion of the lands in the award.

3. Giving such liberty, the writ appeals are dismissed as withdrawn. The parties can raise all the grounds available in law notwithstanding the findings given by the learned Judge with respect to the acquisition in the proceedings to be taken by them. The appellants cannot take advantage of this liberty as if we have rejected the claim made by the proposed parties in WAMP No.5908 of 2003 on merits, as the said dispute is left open."

80. The Division Bench, while granting liberty, had dismissed the writ appeals as withdrawn at the instance of the appellants therein and the parties were permitted to raise all the grounds available in law notwithstanding the findings given by the learned Judge with respect to the acquisition in the proceedings to be taken by them. Could the above liberty be deemed to mean that afresh the petitioners are permitted to agitate their rights once over, which has been decided by the learned Judge in the earlier round of litigation in W.P.No.2409/1992.

81. Normally, once a finding is rendered in a particular matter, the course open to the aggrieved party is only to canvass all the points before the appellate forum. If for any reason the appellate forum feels that certain points have not been considered which require reconsideration, the approach of the appellate forum is to set aside the order and remand the matter so as to deliberate the issue afresh. However, it is to be pointed out that in the case on hand, the order passed by the learned single Judge has not been set aside and the matter has not been remanded for fresh consideration. However, the writ appeal was dismissed as withdrawn with liberty, more specifically at the instance of the appellants, for the appellants to agitate their rights with respect to the acquisition proceedings. This Court is at a loss to understand as to how such a course is permissible. How can the earlier order be allowed to survive and at the same time the appellants be permitted to agitate their rights with respect to the very same issue, more so, when the appeals have been dismissed at the instance of the appellants. This Court is unable to understand as to what weighed with the Division Bench to adopt such a course and is also not able to understand intent and purport of the order of the Division Bench permitting the appellants to raise all the grounds, passed without in any way disturbing the



order of the learned single Judge. Therefore, there is a contradiction between two limbs of the order. In the considered opinion of this Court, allowing the petitioners to reagitate their rights and at the same time the order passed by the learned Judge being allowed to survive would be wholly an unreasonable exercise. Though strictly speaking in judicial terms, the writ petition in W.P.No.13723/04 is suffering the bar of res judicata, however, in view of the order passed by the Division Bench, this Court is not going any further to render a finding one way or the other on the said issue, as other it would be nothing but judicial indiscipline, which this Court is not inclined to be a party to.

82. However, barring the issue of res judicata, it is borne out by record that a claim is made for the said lands, may be for a different extent, by three parties by way of a triangular fight. As already stated above, the findings of the learned Judge in W.P.No.2409/1992 having not been set aside, necessarily, this Court is bound by the findings recorded by the learned Judge. Even otherwise, without being influenced by the directions or the findings rendered by the learned Judge, this Court is also of the considered view that the title dispute cannot be adjudicated before this Court under Article 226 of the Constitution, and the same has to be agitated only before the Civil Court for which as well, suit has been filed and the same is pending consideration.

83. Further, it is to be pointed out that the learned Judge in W.P.No.2409/1992 has not merely dismissed the petition on the issue of maintainability. While holding the petition is not maintainable at the instance of the petitioner, the learned Judge has gone further to decide the issue on merits on the basis of the materials vis-à-vis the Notification u/s 4 (1) and the Declaration u/s 6 and also the other revenue records. That being the case, the issue having been deliberated by the learned single Judge on merits, the said order still surviving, the petitioners cannot reagitate the same issue, as was raised before the learned single Judge in W.P.No.2409/1992.

84. However, keeping aside the said findings for the present, a careful perusal of the contentions coupled with the materials on record reveal that even according to the petitioners the extent of lands, which is the subject matter of dispute was purchased by their ancestors and it has been under their enjoyment and possession since the year 1914. For more than 100 years, the lands have been under their occupation and enjoyment, which effectively means that at the time when the lands were sought to be acquired, the petitioners ought to have been in occupation, possession and enjoyment of the lands. May be when the Notification u/s 4 (1) was issued, the extent of the



lands, which are alleged to have been belonging to the petitioners were not notified, but when the Declaration u/s 6 was published, necessarily the extent of lands were included in the publication. The Declaration u/s 6 was issued in the year 1965 and award was passed in the year 1967 and possession was immediately taken thereafter. However, the petitioners have not taken any steps almost for a period of thirty-five years to challenge the said acquisition.

85. The main plank of attack canvassed by the petitioners in W.P. No.13723/04 is that there is discrepancy in the extent of lands between the Notification u/s 4 (1) and the Declaration published u/s 6 and this vitiates the whole acquisition proceedings and in support of the said submissions very many decisions have been pushed into play, of which the decision of the Hon'ble Apex Court in Barangore Jute Factory case (supra), wherein it has been held as under :-

"5.

So far as the question whether the impugned Notification meets the requirement of Section 3A (1) of the Act regarding giving brief description of land is concerned, we have already shown that even though plot numbers of land in respect of each mouza are given, different pieces of land are acquired either as whole or in part. Wherever the acquisition is of a portion of a bigger piece of land, there is no description as to which portion was being acquired. Unless it is known as to which portion was to be acquired, the petitioners would be unable to understand the impact of acquisition or to raise any objection about user of the acquired land for the purposes specified under the Act or to make a claim for compensation. It is settled law that where a statute requires a particular act to be done in a particular manner, the act has to be done in that manner alone. Every word of the statute has to be given its due meaning. In our view, the impugned notification fails to meet the statutory mandate. It is vague. The least that is required in such cases is that the acquisition notification should let the person whose land is sought to be acquired know what he is going to lose. The impugned notification in this case is, therefore, not in accordance with the law."

86. There is no quarrel with the proposition of law laid down by the Hon'ble Apex Court. Though many other decisions have been relied on to highlight and stress upon the above

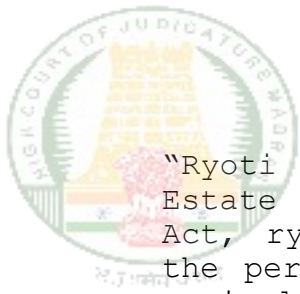


proposition, the said proposition requires no multiplication or addition.

87. The fact remains, in the present case, that there were certain discrepancies with respect to the extent of lands between the Notification u/s 4 (1) and the Declaration u/s 6. However, when enquiry was conducted, the owner of the lands, whose name appeared in the revenue records, viz., Lalithammal, was heard, who had not raised any objection to the said acquisition. The above finds place in the order passed in W.P. No.2409/1992. Based on the said enquiry, award came to be passed. In fact, the owner of the lands, viz., Lalithammal, waived her rights insofar as the extended acquisition is concerned and had received the compensation for the said lands as well. Therefore, it cannot be held that the statutory prescriptions have not been followed, as the party, who had a grievance against any violations, had waived her rights and accepted the compensation paid. Further, the revenue records did not reflect the names of the ancestors of the petitioners as the persons who had pre-existing right in the said lands. Therefore, the acquisition was taken to its logical conclusion by the passing of the award, payment of compensation and taking of possession by the Housing Board.

88. However, only in the year 1996, the petitioners in W.P. No.14418/03 had filed application before the Assistant Settlement Officer, Tiruvannamalai, for grant of patta, which was granted on 14.11.1996. It is to be pointed out that pre-existing right of their ancestors has not been established by the petitioners on the lands in question. The Assistant Settlement Officer/Settlement Officer are vested with power to grant patta only in respect of ryotwari lands and the said proposition is not in dispute. The petitioners in W.P. No.14418/03 had sought for patta, which was granted against which the petitioner in W.P.No.13723/04 had filed revision petition before the Settlement Officer for cancellation of the patta issued in the name of the petitioners in W.P.No.14418/03 and to grant the said patta in their names, which was duly entertained by the Settlement Officer, Thanjavur and patta was granted in favour of the petitioners in W.P.No.13723/04 vide proceedings dated 10.3.2000. Therefore, without any semblance of doubt, the lands for which patta was sought for were ryotwari lands, which the petitioners were very well aware of, as otherwise, they would not have moved the competent authority vested with jurisdiction to grant ryotwari patta.

89. In the above backdrop, the classification of the lands assumes significance. Once a ryotwari patta is applied for and granted, it means that the lands have been declared as ryotwari lands vide the Ryotwari Act. As per the definition of "Ryot" and



“Ryoti Lands” provided u/s 3 (15) and (16) of the Tamil Nadu Estate Land Act, 1908, which has been adopted in the Ryotwari Act, ryoti lands means cultivable lands in an estate and that the person holding the said lands should be for the purpose of agriculture. From the above, it is abundantly clear that ryoti lands are lands which are cultivable and are used for agriculture purposes. Any land in which agriculture is not being done would not fall within the scope of ryoti lands. Further, the person, who claims patta for the ryoti lands should establish that the lands are being used for agriculture. It is further to be pointed out that the Hon’ble Supreme Court in P.Venkataswami & Anr. - Vs - D.S.Ramireddy & Anr. (1976 (3) SCC) has held that a landholder claiming ryotwari patta must prove that he has been cultivating the land by himself or by his own servants from July, 1945 and is in continuous possession of the said lands. The above view has been followed by this Court in the case of Tahsildar, Mambalam-Guindy Taluk & anr. -Vs- Kaneez Fathima & Ors. (2013 (5) MLJ 263).

90. In the case on hand, a perusal of the affidavit filed by the petitioners in W.P.No.13723/04 reveals that the lands were purchased by their great grandfather Mudichur Alavattan and on his demise, the lands devolved on his son Amavasi and on his death, the petitioners, who are legal heirs of the said Amavasi were in possession and enjoyment of the lands. The said lands are alleged to have been purchased by the said Mudichur Alavattan in the year 1914. Between 1914 and 1991, no steps have been taken to mutate the revenue records to bear the name of the petitioners or their ancestors. Similar case pertains to the petitioners in W.P.No.14418/03 as well. Curiously, it is claimed by the petitioners in W.P.No.13723/04 that during the year 1991, when they were about to put a compound wall around their properties in Survey No.207/14 measuring an extent of 1.40 acres, objections were raised by the Housing Board, which shed light on the acquisition by the Housing Board. However, there is no averment and also there is no document to show that the lands have been under cultivation by the petitioners or through their servants.

91. The lands are to be agricultural lands for the purpose of grant of ryotwari patta. Immediately on the enactment of the Ryotwari Act, all the lands notified in the particular Zamin Village stood vested with the Government under the Ryotwari Act and the said lands are presumed to be ryoti lands. That being the case, in the absence of proof to the contra showing that the lands are private lands, as defined u/s 2 (13) of the Ryotwari Act, the lands are to be treated as ryotwari lands and necessary proof as to cultivation is sine qua non to granting a ryotwari patta. However, it is even the case of the petitioners that they were taking steps to put up a compound wall around the said



lands. This Court is baffled and is unable to comprehend as to how in respect of the lands, which are cultivable lands, used for agricultural purposes, compound wall could be raised. If the lands are cultivable lands, it is incumbent on the part of the person claiming ryotwari patta to furnish proof as to the cultivation being carried on the said lands. However, even according to the petitioners in W.P.No.14418/03, they had filed application for patta before the Assistant Settlement Officer during the year 1996. The patta, as stated above, is a ryotwari patta, which is sought for by the petitioners. However, on the date when patta was sought for, i.e., in the year 1996, due to efflux of time from the date when the lands were notified as ryotwari lands and the date of seeking patta, the lands would have lost its character of ryoti lands and definitely agricultural operations would not have been carried on. That being the case, what is the basis on which ryotwari patta was sought for and the basis on which the Assistant Settlement Officer/Settlement Officer had granted ryotwari patta is not clear. Merely because the lands have been notified as ryoti lands pursuant to the enactment of the Ryotwari Act, the Assistant Settlement Officer/Settlement Officer cannot grant ryotwari patta. There should be fulfilment of the lands as being ryoti lands, as per Section 3 (15 and (16) of the Tamil Nadu Estate Land Act, 1908. Without fulfilling Sections 3 (15) and (16) of the Tamil Nadu Estate Land Act, 1908, no ryotwari patta could be granted. The orders passed by the aforesaid authorities does not reveal that there has been fulfilment of Sections 3 (15) and (16) of the Tamil Nadu Estate Land Act, 1908.

92. Pausing here for a moment, the vendor of the petitioner in W.P. No.2401/21 had obtained patta from the Tahsildar, Aminjikai during the year 2019, which was challenged and the appeal was also dismissed leading to revision in which the District Revenue Officer had granted stay on the patta. The petitioners in W.P.Nos.14418/03 and 13723/04 have obtained the alleged patta from the competent authority, as the lands, upon enactment of the Ryotwari Act, stood vested with the Government. The said patta has been cancelled by the Special Commissioner & Commissioner of Land Administration as early as in the year 2006. That being the case, when the lands have vested with the Government under the Ryotwari Act, pursuant to the enactment of the Ryotwari Act, this Court is at a loss to understand as to how patta could be granted by the Tahsildar in favour of the vendor of the petitioner in W.P. No.2401/2021. Further, the said lands have been acquired and possession of the said lands having already been taken over by the Housing Board way back in the year 1967 and inspite of knowledge about the vesting of the lands and possession with the Housing Board, the act of the Tahsildar in granting patta, more so when the lands are ryotwari lands, is wholly unsustainable and this shows sheer



non-application of mind on the part of the authorities in granting patta to ryotwari lands, for which the said authorities are not competent.

93. Further, what baffles this Court more is the fact that the vendor of the petitioner, one Rajaram, who is shown as the 6th respondent is said to be the son of the deceased Parvathy Ammal, who is the daughter of Appu. Yet the 6th respondent has not filed any legal heir certificate with regard to him being the legal heir of the said Parvathy Ammal. However, he has obtained a legal heirship certificate dated 21.5.2014 to show that he is the legal heir of his grandfather Appu, who is the father of Parvathy Ammal. Further, the said legal heir certificate records a fact that the said certificate is being issued on the basis of the order passed by the civil court in C.S.No.75/2014 dated 12.4.2014. However, the fact remains the death certificate pertaining to the grandfather of the 6th respondent has been obtained only on 24.7.2014. This Court is unable to understand the basis on which such a legal heirship certificate has been issued by the Tahsildar and the basis on which the Civil Court had directed issuance of the said certificate.

94. Further, the extract of the land survey register filed by the petitioner in W.P No.2401/21 which is found in the typed set of documents show that while the type of classification has been shown as 'Ryotwari', however, the type of the land is shown as 'house-site'. This Court is perplexed to note as to how a house site can fall under the ryotwari settlement, as already noted above, ryotwari takes within its fold only cultivable lands, which are to be used for agricultural purposes.

95. As already stated above, title to the lands in issue, is claimed by three parties in a triangular contest and all the parties claim their right to the property through execution of sale deed by one Vedammal. Though such a claim is made, however, the order of the learned Judge in W.P.No.2409/1992 has held the ownership of the lands at the hands of Lalithammal. Vedammal, who is alleged to have sold the lands is not shown to be the owner of the lands and the said Vedammal or her immediate purchasers have not claimed any pre-existing rights in the said lands, which were the subject matter of acquisition. There is no document to show as to how the said Vedammal obtained title to the said property. Though some document has been filed to show that Vedammal is alleged to be the owner of the property, however, the same is disputed by the respondents. The petitioners claim right to the property through ancestral lineage and they claim that the property has devolved upon them. However, as stated above, their ancestors have not taken any steps to have the revenue records mutated in their name. The



right enures to the respective petitioners only through their ancestors and without the pre-existing rights of the ancestors or their vendors being established in the manner known to law through necessary revenue records, mere claim of the petitioners on the basis of a singular document, on which three parties lay claim, has got to be agitated only before the appropriate civil court, which alone can adjudicate the issue and render a finding one way or the other. This Court, sitting under Article 226 of the Constitution is not clothed with jurisdiction to decide the issue, more so when the said issue is a whole bag of disputes between various parties coupled with the acquisition proceedings, which has since attained finality more than five decades back subsequent to the vesting of the lands in favour of the Government on the basis of the enactment of the Ryotwari Act.

96. Further, it is to be pointed out that on and from the date of enactment of the Tamil Nadu Estate Land Act, 1908, insofar as the estate lands are concerned, the lands vest with the Government and upon such vesting, it is incumbent on the part of the owners of the land to obtain ryotwari patta from the competent authority, without which alienation of such lands to other third parties is prohibited. However, in the case on hand, the claim made by the petitioners is relatable to a sale transaction, which has been entered into in the year 1914, much after the enactment. Such being the case, there runs a total prohibition on the said Vedammal to convey the property by way of sale to any third party. Without obtaining any ryotwari patta, any alienation made by the said Vedammal is wholly impermissible.

97. In the case on hand, after coming into force of the Tamil Nadu Estate Land Act, 1908, the alleged sale transaction has taken place. Neither the alleged vendor, viz., Vedammal, nor the purchaser, viz., the ancestors of the petitioners have obtained ryotwari patta in and by which right flows to the said individuals to alienate the property. When the land vested with the Government consequent upon the enactment of the Ryotwari Act, the owners of the lands ought to have obtained patta from the competent authority under the Ryotwari Act at the particular point of time. Neither the original owners nor the persons, who are alleged to have purchased from the original owners, have claimed pre-existing rights over the property, which has since vested with the Government on the enactment of Ryotwari Act. After a lapse of more than 45 years, in the year 1996, the petitioners in W.P.No.14418/03 have filed application seeking ryotwari patta from the Assistant Settlement Officer, Tiruvannamalai.

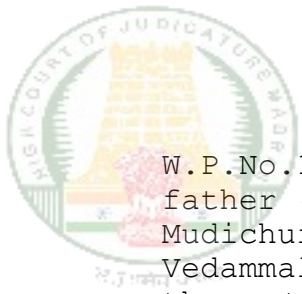
98. As already pointed out, ryotwari patta could be granted only in respect of ryoti lands, which are continuously



cultivable. However, the passage of more than 45 years would have definitely changed the character of the lands and the cultivable nature, which is a pre-requisite for grant of a ryotwari patta and, therefore, such a plea for grant of ryotwari patta would no longer survive. Neither the petitioners nor their ancestors, have taken any steps claiming ryotwari patta and the said patta is being sought for when the lands are totally out of shape from being classified as ryoti lands. Such being the case, when the lands are not cultivable any more and no cultivation taking place in the said lands, not only the claim for ryotwari patta is bad, but equally bad is the act of the Assistant Settlement Officer and the Settlement Officer in granting ryotwari patta. It is to be stated, without any trace of contradiction from any quarters, that the Assistant Settlement Officer as also the Settlement Officer have totally lost sight of the necessary ingredients of the ryoti lands and for reasons best known to them have granted ryotwari patta in favour of one or the other petitioners.

99. Pre-existing right on the ancestors of the petitioners has been claimed by the respective parties. However, to establish such a claim, first of all the title to the property has to be established. Thereafter, the continued possession and enjoyment of the ancestors of the petitioners by which they gain their right has to be established. Upon establishment, the ingredients of Section 3 (15) and (16) of the Tamil Nadu Estate Land Act requires to be fulfilled for grant of ryotwari patta. However, without establishing any of the above, it is not open to the petitioners to come before this Court and on the basis of a document, which is shrouded with dispute, claim that they are entitled to the extent of lands and that the acquisition by the Housing Board should be declared null and void in view of the erroneous extent notified in the 4 (1) Notification vis-à-vis the Declaration u/s 6. Without the title and pre-existing right been conferred on the particular party in respect of the disputed lands in a manner known to law, the petitioners in W.P.No.14418/03 and 13723/04 cannot claim grant of ryotwari patta and this aspect has been dealt with in proper perspective by the Special Commissioner and Commissioner for Land Administration, who has rightly cancelled the ryotwari patta granted by the Settlement Officer.

100. Further, the claim of the petitioners in W.P.Nos.14418/03 and 13723/04 is through their father Amavasi who is the son of Mudichuran Alavattan. Legal Heirship certificate of the alleged individuals have been filed by both the parties. The Settlement Officer, while considering the patta granted to the petitioners in W.P.No.14418/03 by the Assistant Settlement Officer, Tiruvannamalai, had cancelled the patta and, in turn, had granted patta in favour of the petitioners in



W.P.No.13723/04 on the ground that it is only Amavasi, the father of the petitioners in W.P.No.13723/04, who is the son of Mudichuran Alavattan, who had purchased the property from Vedammal through Doc.No.1703/14 on 13.11.1914 and the claim of the petitioners in W.P.No.14418/03 regarding their father being Amavasi, who is the son of Mudichuran Alavattan, and who is alleged to have purchased the property from Vedammal through Doc.No.1703/14 on 13.11.1914 is not correct. However, the order of the Settlement Officer, Thanjavur, is bereft of any particulars as to the basis on which the said finding has been arrived at. Further, this Court is also perplexed to note as to the authority under which such a finding has been recorded by the Settlement Officer, Thanjavur, as to the identity of an individual merely based on a document, when there are rival claims, when such a finding could be recorded only by a civil court of competent jurisdiction. By the said act of the Settlement Officer, the said authority has usurped the authority and jurisdiction of the civil court to render such a finding, which finding is perverse, bad, illegal, irregular and vitiates the issuance of patta. The said act of the Assistant Settlement Officer and the Settlement Officer in granting patta to one or the other party has been rightly appreciated in the wake of the order passed by the learned Judge in W.P.No.2409/1992 by the Special Commissioner and Commissioner for Land Administration vide the impugned order, which does not require any interference.

101. Insofar as the claim of the petitioners in W.P.No.1635/21 and 2401/21 are concerned, they claim to be subsequent purchasers of the property, viz., the respective petitioners, who are alleged to have received title from their ancestors. However, as pointed out above, the title with regard to the property itself is in dispute, with claim coming from three quarters and the fourth quarter being the Tamil Nadu Housing Board, which claims to have acquired the property from the owner way back in the year 1967.

102. As already pointed out above, without proper title on the vesting of the property in the Government pursuant to the enactment of the Tamil Nadu Estate Land Act, which has by now merged with the Ryotwari Act, 1963, the property is alleged to have been alienated by Vedammal in favour of the ancestors of the respective petitioners. However, this Court is not going into the said aspect of the matter, but before the title is decided in favour of any of the party, giving any affirmative direction to the registering authority to register the document and release the same would be nothing but creating further encumbrance on the property, which has been encumbered on all sides by the petitioners. Therefore, this Court is not inclined to issue any direction to the registering authority at this point of time, as it would be nothing but paving the way



for mushrooming of further litigations. Therefore, the writ petitions in W.P.Nos.1635/21 and 2401/21 deserves to be rejected.

103. For the reasons aforesaid, issues 1 to 4 are answered in the above terms against the petitioners.

104. This Court now comes to the broader aspect of the matter, which has far-reaching consequences, relating to the extension of the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act even after a passage of over a century since the enactment of the parent Act, viz., the Tamil Nadu Estate Land Act, 1908.

105. This Court, before embarking to put forth its views, would like to give a brief outline with regard to the various enactments relating to Estates.

106. Pre-independence, the Tamil Nadu Estate Land Act, 1908, was enacted with the main object of safeguarding the interest of millions of cultivators but also to ensure that the landlord was secured in his just rights including the proper collection of his rents. The said Act provided the definition of "Ryot" and "Ryoti Land", which has since been carried forward in all the subsequent enactments, which has been quoted aforesaid and discussed in extensor.

107. Marching on the heels of the said enactment, the Ryotwari Act, viz., the Tamil Nadu Inam Estates (Abolition & Conversion into Ryotwari) Act, 1948 was enacted, which took within its fold the Tamil Nadu Estate Land Act. The Ryotwari Act was followed up with amendment in the year 1951 and, thereafter, Act 26 of 1963, viz., the Tamil Nadu Inam Estates (Abolition & Conversion into Ryotwari) Act, 1963 was notified. The said Acts took within its fold both Major Inams and Minor Inams. Thereafter, Tamil Minor Inams (Abolition & Conversion into Ryotwari) Act, 1963 (Act 30 of 1963) was notified.

108. Section 5 of the Ryotwari Act, provides for the appointment and functions of the Settlement Officer, which is quoted hereunder for better clarity:-

"4. Appointment and functions of Director of Settlements. - As soon as may be, after the passing of this Act, the Government shall appoint a Director of Settlements to carry out Survey and Settlement operations in estates and introduce ryotwari settlement therein. The Director shall be subordinate to the Board of Revenue.



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5. Appointment and functions of Settlement Officer. - (1) As soon as may be after the passing of this Act, the Government shall appoint one or more Settlement Officers to carry out the functions and duties assigned to them under this Act.

(2) Every Settlement Officer shall be subordinate to the Director and shall be guided by such lawful instructions as he may issue from time to time; and the Director shall also have power to cancel or revise any of the orders, acts or proceedings of the Settlement Officer, other than those in respect of which an appeal lies to the Tribunal."

109. The Act has provided for appointment of Director of Settlements and Settlements Officers to carry out the functions and duties assigned to them under the Act. Grant of ryotwari patta has been provided u/s 11 of the Act and the same is quoted hereunder for better appreciation :-

"11. Lands in which ryot is entitled to ryotwari pattas. - Every ryot in an estate shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of-

(a) all ryoti lands which, immediately before the notified date, were properly included or ought to have been properly included in his holding and which are not either lanka lands or lands in respect of which a landholder or some other person is entitled to a ryotwari patta under any other provision of this Act; and

(b) all lanka lands in his occupation immediately before the notified date, such lands having been in his occupation or in that of his predecessors-in-title continuously from the 1st day of July 1939:

Provided that no person who has been admitted into possession of any land by a landholder on or after the 1st day of July 1945 shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

Explanation. - No lessee of any lanka land and no person to whom a right to collect the rent of any land has been leased before the notified date,



including an ijaradar or a farmer of rent, shall be entitled to a ryotwari patta in respect of such land under this section."

110. A careful reading of the aforesaid provision, including the proviso thereto reveals that no person, who has been admitted into possession of any land by the landholder on or after the 1st day of July, 1945, shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

111. In the case on hand, all the petitioners claim possession since 1914, the ancestors of the petitioners having purchased the subject lands from one Vedammal. However, neither Vedammal nor their alleged successor-in-title have claimed patta even after the introduction of the Ryotwari Act. Koyambedu Village was taken over under the Madras Estates (Abolition & Conversion into Ryotwari) Act, vide G.O.Ms.No.3157, Revenue, dated 9th Dec., 1951. It is the case of the respective petitioners that they were in occupation of the lands and upon vesting of the lands, no steps have been taken by the petitioners to obtain ryotwari patta from the competent authority. The petitioners have not pleaded ignorance of the vesting of the property under the Madras Estates (Abolition & Conversion into Ryotwari) Act. Their ignorance is only insofar as the acquisition proceedings are concerned. That being the case, the petitioners have been oblivious of the vesting of the lands in the Government and, therefore, they should have taken necessary steps to obtain ryotwari patta at the earliest point of time. However, only after a period of 45 years, in the year 1996, the petitioners have sought for ryotwari patta, at which point of time, the land has lost its character of a ryoti land.

112. In the aforesaid backdrop, after a passage of around four and a half decades, for the first time the petitioners in W.P.No.14418/03 have come before the Assistant Settlement Officer seeking grant of ryotwari patta. In respect of the take over of the lands under the various Ryotwari Acts, which are decades old, the post of Settlement Officer/Assistant Settlement Officer are still being continued by the Government for issuance of patta. As already noted above, by now, the lands, which stood vested, would have lost its character as ryoti lands, irrespective of the place of acquisition and that being the case, this Court is at a loss to understand as to the need for maintenance of the various Ryotwari enactments still as a statute, when the said enactments have outlived their life and would no longer be necessary. Keeping the said enactments alive is nothing but aiding the breeding of corruption, as frivolous petitions are filed seeking issuance of ryotwari patta and



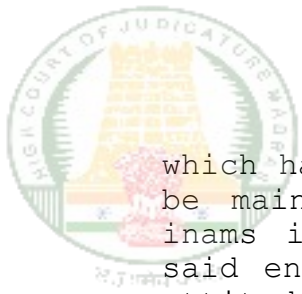
unmindful of the provisions of law and without taking into consideration the character of the lands, on the present date, ryotwari patta is being issued by the Assistant Settlement Officer/Settlement Officer.

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113. This case is one of a classic kind, where the petitioners have gone the Settlement Officer/Assistant Settlement Officer after a few decades seeking ryotwari patta and the said request has been entertained by the Assistant Settlement Officer/Settlement Officer unmindful of Section 3(15) and (16) of the Tamil Nadu Estate Land Act, 1908 with regard to ryoti lands. Needless to say that the act of the Assistant Settlement Officer and the Settlement Officer is not only not in the spirit of law, but it is a clear depiction of total non-application of mind and abdication of their duties and responsibilities to the various provisions of law, which could be nothing but an act to breed corruption of highest standards.

114. One other aspect which is equally draws the attention of this Court is the fact that the Tahsildar, Amijikarai, in the year 2019, on the basis of the application of one Rajaram, the vendor of the petitioner in W.P. No.2401/21 had granted patta in favour of the said Rajaram. The said lands for which patta has been granted has been encumbered by the alleged selling of the said to the petitioner in W.P.2401/21. It is curious to note here that the settlement register produced by the petitioner shows that the lands are ryotwari lands and has been classified as "House-site". When the lands have vested with the Government as early as in the year 1951 and the lands having been classified as ryotwari lands, this Court is at a loss to understand as to how the nature of the lands in the settlement register could show the said lands to be house-site. Furthermore, when the lands are classified as ryotwari lands, how the Tahsildar has granted patta in favour of the vendor of the petitioner, when the said Tahsildar had no jurisdiction to issue patta in respect of ryotwari lands. The said act of the Tahsildar has been approved by the Revenue Divisional Officer as well, but at the behest of the District Revenue Officer, stay has been granted. The act of the Tahsildar and the Revenue Divisional Officer shows collusive attitude as without their support, the revenue records could not show the nature of the lands to be house-site. This clearly shows that all is not well with the said transaction and due to such impermissible acts perpetrated by the officials, frivolous litigations, such as this one are being filed, time and again before this Court, not only burdening this Court, but also making the rightful holder of the lands to much inconvenience.

115. The reason for the said situation is the act of the Government in not taking prompt steps in repealing enactments,



which have exhausted its life and are no longer a requirement to be maintained. The Ryotwari enactments, both minor and major inams is one such law, which is still being held, though the said enactment has outlived its life. Due to the recalcitrant attitude of the Government in not repealing such enactments, not only corruption is allowed to flourish, but the same paves the way for land grabbing as well, which is a very big menace in the society. It is high time that the Government takes prompt action to repeal such enactments, which are no longer required to be maintained so that many illegal acts can nipped in the bud. Not only the action to repeal the enactments would suffice, but equally the revenue officials, who did not have any jurisdiction to grant patta in respect of ryotwari lands have been responsible for the said act of granting patta in respect of ryotwari lands and, therefore, this Court feels that the Government should conduct an enquiry in order to fix the responsibility on the person, who has been instrumental in doing such nefarious acts and take appropriate action against such of those persons, which alone would restore the faith of the public in the functioning of the Governmental machinery.

116. This Court is of the considered opinion that all of the Inam Estate Acts requires repealing as it has served its purpose for which it was enacted and the same is no longer required. In the light of the aforestated position, this Court, in exercise of its inherent and extraordinary jurisdiction under Article 226 of the Constitution of India, is inclined to issue the following directions :-

- 1) All the writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.
- 2) Henceforth, the Assistant Settlement Officer/Settlement Officer, provided u/s 5 of the Ryotwari Act and similar provisions under the relevant Estate Acts are barred from functioning and entertaining any petition relating to issuance of ryotwari patta and necessary steps shall be taken by the Government to instruct the officers accordingly.
- 3) No petition for issuance of ryotwari patta, hereinafter, be entertained and any such application filed shall be placed before the Special Commissioner & Commissioner for Land Administration for appropriate orders.



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- 4) Any application pending consideration before the Assistant Settlement Officer/Settlement Officer shall stand transferred to the file of the Special Commissioner & Commissioner for Land Administration for consideration and appropriate action.
- 5) All data relating to ryoti lands be digitalised forthwith along with the other lands, which have been digitalised, upon manual verification and reconciliation with the digital records available with the Land Administration Department and any error or ambiguity in the digital record, the competent authority, so authorised by the Special Commissioner and Commissioner of Land Administration, shall cause notice to the individual to produce the relevant records for reconciliation and proper correction of data.
- 6) Based on such reconciliation and correction of data, patta shall be issued to the concerned individuals and digital copy of the same be maintained in the websites, like the encumbrance certificate, for verification and downloading by the concerned landowners.
- 7) The Chief Secretary along with the Revenue Secretary shall forthwith take necessary steps to find out the Acts, which have outlived their requirement and purpose and take concrete and necessary action for repealing such enactments in consultation with the Law Commission. The above exercise shall be carried out by the aforesaid authorities within a period of three months from the date of receipt of a copy of this order.

117. For the reasons stated aforesaid, all the writ petitions are dismissed with the aforesaid directions. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

GLN



To

1. The Special Commissioner and Commissioner
of Land Administration,
Chepauk, Chennai - 600 005.
2. The Director of Land Survey
and Settlement,
Chepauk, Chennai - 600 005.
3. The Settlement Officer,
Chepauk, Chennai - 5.
4. The Assistant Settlement Officer,
Chepauk, Chennai - 5,
Tiruvannamalai.
5. The Managing Director,
The Tamil Nadu State Housing Board,
Anna Salai, Nandanam,
Chennai - 9.
6. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 9.
7. The Secretary to Government ,
Department of Housing & Urban Development,
Fort St. George,
Chennai - 600 009.
8. The Chairman & Managing Director,
The Tamil Nadu Housing Board,
Nandanam, Chennai - 35.
9. The Special Deputy Collector (LA),
State Housing Board Scheme,
Thirumangalam,
Chennai - 101.
10. The Executive Engineer,
Special Division - I,
State Housing Board Scheme,
Thirumangalam,
Chennai - 101.
11. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

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12. The Sub Registrar,
Anna Nagar, JJ Complex,
Jawaharlal Nehru Road,
Anna Nagar,
Chennai - 600 040.
13. The Executive Engineer & Administrative Officer,
The Tamil Nadu Housing Board,
Anna Nagar Division,
Thirumangalam,
Chennai - 600 040.
14. The Executive Engineer,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.
15. The Special Tahsildar (Land Acquisition),
The State Housing Board Schemes,
Nandanam, Anna Salai,
Chennai - 600 035.
16. The Sub Registrar Joint - I,
No.98, Nellukkara Street,
Periya Kanchipuram,
Kanchipuram - 631 501.

+1cc to Mr.P.Sudalaiyandi, Advocate, S.R.No.29813
+2ccs to Mr.R.Malaichamy, Advocate, S.R.No.29842
+4ccs to Mr.T.Dhanasekaran, Advocate, S.R.No.30012
+2ccs to Mr.K.Surendar, Advocate, S.R.No.30149
+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.29812
+2ccs to Mr.T.Thiyagarajan, Advocate, S.R.No.29998

W.P.NO.14418 OF 2003
W.P.NO.13723 OF 2004
W.P.NO.1635 OF 2021
W.P.NO.2401 OF 2021

SJ(CO)
PBS/19/05/2022