



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.26709 of 2005
and WPMP.No.29140 of 2005

1. Manickam(deceased)
2. Palaniyayi
3. Mohanasundaram
4. Sivajothi
5. Manimozhi
6. Indarani
7. Parimala

(P2 to P7 are impleaded by this court vide order dated 28.02.2022 in WMP.No.4133 of 2022 in W.P. No.26709 of 2005)

...Petitioners

Vs.

1. The Director of Survey & Settlements,
Chepauk, Chennai-6.
2. The Tahsildar,
Aranthangi,
Pudukottai District.
3. P.Swaminathan
4. Sakthivel
5. Veeraiah Thevar(deceased)

6. Ramachandran
(Impleaded as 6th respondent vide order dated 28.02.2022 in WMP.No.25125 of 2019 in W.P. No.26709 of 2005)

...Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus calling for the records of the first respondent in R.P.No.19 of 1992 dated 25.05.1999 and to quash the same as illegal and directing the first respondent to dispose of the revision petition on merits after hearing the petitioner.



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For Petitioner : Mr. R.Chellamuthu

For Respondent : Mr. Murali RR1 & 2
Government Advocate

O R D E R

During pendency of the petition, the petitioner and the 5th respondent passed away. The legal heirs of the both parties were impleaded as follows:

'The petitioners viz., Palaniyayi, Mohanasundaram, Sivajothi, Manimozhi, Indarani and Parimala (P2 to P7) are impleaded by this Court vide order dated 28.02.2022 in WMP.No. 4133 of 2022 and One Ramachandran is impleaded as 6th respondent in this petition vide order dated 28.02.2022 in WMP.No.25122 of 2019.'

2. The writ petition has been filed to quash the proceedings passed by the first respondent in R.P.No.19 of 1992 dated 25.05.1999 and directing the first respondent to dispose of the revision petition on merits after hearing the petitioner.

3. The case of the petitioner is that the patta was granted to the petitioner for an extent of 6.43 acres in s.No.64/2 situated in Koothangudi Village, Aranthangi Taluk in the settlement proceedings initiated under Section 26 of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1948 (hereinafter referred to as 'the Act'). The Settlement Officer, vide his order dated 04.01.1979, cancelled the patta granted to the petitioner and classified the land as 'Vari poramboke'. Aggrieved by the said order, the petitioner (deceased) has filed a revision petition before the first respondent for fresh enquiry. In pursuance of the order, the Settlement Officer granted patta in favour of the petitioner in respect of 59 cents. However, the other lands were classified as Vari poramboke. Aggrieved by the order, the petitioner has again filed a revision before the first respondent claiming patta for S.No.64/3 part and 64/5 part also. The first respondent, vide its order dated 08.05.1984, set aside the order of the settlement officer and again remanded the matter back to the settlement officer for fresh enquiry and disposal. The Settlement Officer Thanjavur, rejected the claim made by the petitioner on 27.04.1992. Challenging the said order of rejection, the petitioner has filed a revision in R.P.No.19 of 1992 before the first respondent and the said revision was



dismissed for default dated 25.05.1999. As against the order of dismissal, the petitioner has filed this writ petition before this court seeking appropriate remedy.

4. The learned counsel for the petitioners submitted that the present impugned order was passed without hearing the petitioner. The learned counsel for the petitioner therein has not appeared before the Settlement Officer on the date of hearings and therefore, an ex-parte order was passed and not on merits. In order to decide the matter on merits, this Court may set-aside the impugned order and remand the matter back to the authorities for fresh consideration.

5. The learned Government Advocate appearing on behalf of the Government submitted that during enquiry, even after receipt of the notice, the petitioner and his legal heirs have not appeared before the first respondent. After giving sufficient opportunity to the petitioner, the present impugned order has been passed, which does not warrants any interference.

6. Heard, learned counsel for the petitioner, the learned Government Advocate appearing on behalf of the respondents and perused the materials available on records.

7. This Court have carefully perused the impugned order, which makes it clear that notice was sent to the petitioner on 23.06.1998 and 23.04.1999. But no one has been appeared for enquiry on 24.07.1998 and hence, the case was posted to 04.05.1999. On 04.05.1999, there was no appearance on behalf of the petitioners. Hence, the revision petition was dismissed for default. The learned counsel for the petitioners fairly submitted that they seeks an one last opportunity and they will contest the revision without fail.

8. In view of the facts and circumstances of the case and in order to give one more opportunity to the petitioner, this Court passes the following order:

''(i) The order passed by first respondent in R.P.No.19 of 1992 dated 25.05.1999 is set-aside and remands the matter back to the first respondent for fresh consideration;

(ii) The petitioners are directed appear before the first respondent on 30.03.2022 and make a fresh representation to the first respondent along with all the relevant documents and also a copy of this order; and



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(iii) after receipt of such representation, the first respondent shall consider the same and pass appropriate orders, on merits, after giving sufficient opportunity to the petitioner and also the respondents 4 & 6, within a period of twelve weeks from the date of receipt of a copy of this order.''

9. The Writ Petition is allowed with the above terms. Though notice has been served through Court as well as privately on the 3rd respondent, however, no one appeared on his behalf. Hence, the writ petition is dismissed in respect of the 3rd respondent. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Director of Survey & Settlements,
Chepauk, Chennai-6.

2. The Tahsildar,
Aranthangi,
Pudukottai District.

+1 CC to Mr. Chellamuthu, Advocate sr 13146

+1 CC to The Government Pleader sr 13813.

W.P. No.26709 of 2005

MG(CO)
SP(29/03/2022)