



W.P.Nos.30338 of 2011, 23767 and 27381 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.30338 of 2011, 23767 and 27381 of 2013
and M.P.No.1/2011, 1/2013 and 2/2013

C.Kandasamy ... Petitioner in W.P.No.23767/2013

Arulmigu Veeramathi Temple
Seetharampalayam
Tiruchengode
rep.by the present Trustee
R.Nagarajan

...Petitioner in W.P.Nos.30338 & 27381/2013
Vs.

1.The District Collector,
Namakkal District,
Namakkal.

2.The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.

3.The Tahsildar,
Thiruchengode,
Namakkal District.

4.Sakthivel

5.Saraswathi

6.C.Kandasamy

7.Dhandayuthapani

8.S.Subramaniam



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9.Madeshwaran

10.Yellamuthu

1.The District Collector,
Namakkal District,
Namakkal.

2.The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.

3.The Tahsildar,
Thiruchengode,
Namakkal District.

4.Arulmighu Veeramathi Temple,
Seetharampalayam,
Thiruchengodu,
Namakkal District,
rep.by its Trustee
R.Nagarajan

...Respondents in W.P.No.30338/2011

... Respondents in W.P.No.23767/2013

1.The Commissioner and Director
of Survey and Settlement,
Chepauk, Chennai 5.

2.The Settlement Officer,
Survey and Settlement Department,
Chepauk, Chennai 5.

3.The Settlement Tahsildar,
Town Survey and Settlement,
Tiruchengode,
namakkal District.

4.R.Sakthivel

5.Saraswathi

6.C.Kandasamy



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7.S.K.Shanmugavel

8.K.Balasubramani

9.Ellamuthu (deceased)

10.E.Ramasamy

11.M.Giriraja

12.M.Thiyagarajan

13.J.Sathishkumar

14.K.Vinoth Kumar

15.Mani

...Respondents in W.P.No.27381/2013

(R15 has been substituted vide WMP.NO.8609/2017, dated 27.04.2022)

PRAYER in W.P.No.30338/2011: This Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus Calling for the records relating to the proceeding of the 1st respondent in his Office Ref. Na. Ka. 14333/2010/L3 dt 17.5.2011 and quash the same in so far as the same is against the petitioner and direct the respondents 1 to 3 herein to remove the encroachments made by the respondents 4 to 10 herein in old Survey No.83, Seetharampalayam Village, Tiruchengode Taluk, Namakkal District, within the time that may be fixed by the Honourable Court.

PRAYER in W.P.No.23767/2013: This Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorari Calling for the records comprised in Na.Ka.No.14333/ 2010/ L3 dated 12.7.2013 on the file of the first respondent quash the same.

PRAYER in W.P.No.27381/2013: This Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorari calling for records relating to the order dt 9.4.2012 passed by the 2nd respondent in his office Ref. Mu. Mu./2393/12 and quash the same.



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W.P.No.30338/2011:

For Petitioner : Mr.P.Mani
For RR1 to 3 : Mr.V.Veluchamy
Additional Government Pleader
For RR4 & 5 : Mr.Mukunth for M/s.Saravabhuman Associates
For R6 : Mr.B.Kumar for Mr.R.Bharanidharan
For R7 : Mr.D.Kanagasundaram
For R8 & R9 : Mr.N.Manokaran

W.P.No.23767/2013:

For Petitioner: Mr.B.Kumar, Senior Counsel for Mr.R.Bharanidharan
For RR1 to 3 : Mr.V.Veluchamy
Additional Government Pleader
For R4 : Mr.P.Mani

W.P.No.27381/2013:

For Petitioner : Mr.P.Mani
For RR1 & 2 : Mr.V.Veluchamy
Additional Government Pleader
For RR4,5,10,11,13,14 : Mr.Mukunth
for M/s.Saravabhuman Associates
For R6, 7 and 8 : Mr.B.Kumar, Senior Counsel
for Mr.R.Bharanidharan

Common Order

These writ petition are filed challenging the orders of the respondents

1 and 2 dated 17.05.2011, 12.07.2013 and 09.04.2012.

2. Since the issue arises in the present round of litigations are one and the same, these petitions are taken up together and disposed of by this common order.

3. The case of the petitioner in W.P.No.30338 of 2011, is that he is the trustee of the petitioner Temple Arulmigu Veeramathi Temple, situated in S.F.No.83, measuring 0.20.5 hectares, in Seetharampalayam Village,



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Thiruchengode Taluk, Namakkal District and the said entire land is in possession of the said Temple, which is classified as 'Temple Poromboke'.

While so, some of the villagers encroached a portion of the said land and put up temporary sheds and so the petitioner Temple requesting the respondents 1 to 3 to remove the encroachments and also submitted a representation dated 05.03.2010 to the 1st respondent in person and requested him to take necessary action to remove the said encroachment. Since no effective step was taken, the petitioner Temple filed has W.P.No.17546/2010 for necessary direction, wherein this Court was pleased to direct the 1st respondent to consider and dispose of the petitioner Temple representation. Similarly, the encroachers, have filed W.P.No.18048/2010 etc, to issue patta under one time patta scheme, wherein this Court directed the 1st respondent/District Collector to consider the representations of the encroachers. In compliance of the said order, as ordered by the District Collector, the 2nd respondent Revenue Divisional Officer has conducted enquiry, whereby the petitioner Temple have produced all the documents to prove that the said land belong to the Temple and thereafter, the RDO submitted the report to the District Collector, stating that the land in question was classified as 'Government Paarai Poromboke' before UDR Scheme and after the UDR scheme, it has been classified as 'Government Kovil Poromboke'. On the basis of the said report, the 1st respondent passed the



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impugned order dated 17.05.2011, as if the land in question is a 'Government Paarai Poromboke' and patta would be issued to the private respondents in W.P.No.30338/2011. Challenging the said order, the petitioner Temple has filed W.P.No.30338/2011.

4. Further case of the petitioner Temple vide W.P.No.27381/2013 is that challenging the said impugned order in W.P.No.30338/2011, the petitioner Temple has preferred appeal before the Revenue Divisional Officer, Tiruchengode, who in turn required the Tahsildar, Tiruchengode, to submit his report. The Tahsildar, Tiruchengode has also submitted his report stating that in the 'A' Register, Town Survey Register and in the Registrar of Temple Poromboke lands maintained in the Village, the said land has been classified as 'Temple Poromboke Land'. Furthermore, since the District Collector, Namakkal did not pass any orders on the said appeal, the petitioner Temple filed W.P.No.6106/2013 before this Court and this Court vide order dated 14.03.2013, directed the District Collector, Namakkal, to pass orders on the said appeal. Thereafter, the District Collector, Namakkal, has passed orders by setting aside the order dated 17.05.2011.



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5. While being so, in the meantime, the respondents 4 to 14 in

W.P.No.27381/2013 had submitted a petition before the 2nd respondent to reclassify the lands encroached by them as 'natham' and to grant patta to them and the 2nd respondent, on the basis of the order dated 17.05.2011, without considering the subsequent set aside order of the District Collector, Namakkal, dated 12.07.2013, has passed the impugned order dated 09.04.2012, directing the Settlement Tahsildar, Town Survey and Settlement, Tiruchengode, to issue patta to the respondents 4 to 14 after re-classifying the lands encroached by them as 'natham'. Aggrieved by the said impugned order, the petitioner Temple has filed this Writ Petition in W.P.No.27381/2013.

6. In counter to the above two writ petitions, one of the encroacher had filed W.P.No.23767 of 2013, alleging that the said lands have been enjoyed by the petitioner and his forefathers for more than 50 years. While so, the official respondents without considering the material aspects, based on the filing of series of frivolous litigations by the Temple authorities, had illegally passed the impugned order dated 12.07.2013, by setting aside the order of the Tahsildar, dated 17.05.2011 and it is further alleged by the petitioner that the The Tahsildar, Thiruchengode, without issuing any notice to the petitioner or other occupants in the lands, had straight away passed the present impugned



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order dated 12.07.2013. challenging the same, the writ petition in W.P.No.23767/2013 has been filed.

7. The learned counsel appearing for the petitioner in W.P.No.23767/2013 submitted that the entire issue arises in the present round of litigation is as to whether the private individuals are entitled to get patta for the Government Poromboke Land, which was earlier classified as 'Temple Poromboke'. However, he submitted that it is a policy decision taken by the Commissioner of Land Administration, based on the relevant schemes and hence, the parties may be directed to file appropriate a claim petition before the Commissioner, Land Administration, who after receiving objections from the necessary parties and after considering the relevant materials may pass appropriate orders in accordance with law and prays this Court to pass appropriate orders in that regard.

8. The learned counsel appearing for the petitioners in W.P.Nos.30338 of 2011 and 27381 of 2013 also conceded the request made by the learned counsel appearing for the petitioner in W.P.No.23767/2013. However, it is further submitted by the learned counsel appearing for the petitioner Temple in W.P.No.27381/2013 that though the said impugned order



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was passed by the Settlement Officer, Survey and Settlement Department, by directing the Settlement Tahsildar to issue patta, the said official is not a competent authority to issue patta and he has no power to issue the same. Hence, he prays for quashment of the impugned order of the Settlement Officer, dated 09.04.2012.

9. This Court has carefully considered the rival submissions and also perused the materials available on record.

10. In view of the consent view expressed by the learned counsel appearing for the respective parties, this Court without expressing any opinion on the merits of the matter, directs the writ petitioners in all petitions to prefer appropriate petition before the Commissioner, Land Administration, within a period of four weeks, based on the impugned orders passed by the District Collector. If any such representation is received by the Commissioner of land Administration, the same may be considered in the manner known to law, after hearing the petitioners in the respective writ petitions and pass appropriate orders as expeditiously as possible.



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11. Further as rightly pointed out by the learned counsel appearing for the petitioner in W.P.NO.27381/2013, the Settlement Officer is not a competent authority to issue patta and he has no power to do so and thereby, the impugned order dated 09.04.2012, directing the Settlement Tahsildar to issue patta, is non est in the eye of law and therefore, it is liable to be set aside.

12. In view of the above, the Writ Petition in W.P.No.27381/2013 is allowed and the impugned order dated 09.04.2012 passed by the Settlement Officer, is set aside and the Writ Petitions in W.P.Nos.30338/2011 and 23767/2013 are disposed of with the above terms. No costs. Consequently connected miscellaneous petitions are closed.

27.04.2022

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To

1. The District Collector,
Namakkal District,
Namakkal.
2. The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
3. The Tahsildar,
Thiruchengode,
Namakkal District. 1. The Commissioner and Director
of Survey and Settlement,
Chepauk, Chennai 5.
4. The Settlement Officer,
Survey and Settlement Department,
Chepauk, Chennai 5.
5. The Settlement Tahsildar,
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namakkal District.



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M.DHANDAPANI,J.

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