



WEB COPY



WP.No.26143 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.26143 of 2022
and W.M.P.No.25227 of 2022

1.Palanivelrajan
2.M.Palanikumaran
3.M.Muthu
4.A.Bhuvaneshwari

.. Petitioners

Versus

1.The Additional Principal Secretary
and Commissioner of Land Administration
Survey and Settlement Department
Chepauk
Chennai – 600 005

2.The Director and Commissioner
Survey and Settlement Department
Survey House
Chepauk, Chennai – 600 005

4.The District Collector
Madurai District, Madurai

5.The Tahsildar
Madurai North Taluk
Madurai

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India

praying to issue a Writ of Certiorarified Mandamus, calling for the records of



WP.No.26143 of 2022

the impugned order issued by the 3rd Respondent pertaining to the proceedings in Na.Ka. A1/ 962/ 2021 dated 18.08.2022 quash the same and further directing the third respondent to hold fresh enquiry on the petitioners application dated 6.08.2019 for the grant of patta and complete the enquiry within the time stipulated as per the order issued by this Honble court in W.P. No. 68 of 2005 dated 3.12.2009.

For Petitioner : Mr.M.Silambarasan

For Respondents : Mr.T.K.Saravanan
Government Advocate

ORDER

This writ petition is filed challenging the order issued by the 3rd Respondent pertaining to the proceedings in Na.Ka. A1/ 962/ 2021 dated 18.08.2022 quash the same and further directing the third respondent to hold fresh enquiry on the petitioners application dated 6.08.2019 for the grant of patta and complete the enquiry within the time stipulated as per the order issued by this Honble court in W.P. No. 68 of 2005 dated 3.12.2009.

2. The case of the petitioner is that the petitioners are the owners of the land measuring to a total extent of 1 acre and 60 cents comprised in R.S.No.134/2 A1 corresponding T.S.No.73 in Thallakulam Village, Madurai North Talluk by virtue of sale deeds in Doc. Nos. 918 to 922 of 2018 dated



WP.No.26143 of 2022

23.04.1998 from one Noorjahan, A.Karikalan, A.Sittarasu and A.Anitha for valuable consideration. From the date of purchase, the petitioners were in peaceful possession and enjoyment and the petitioners knew that the revenue records like Adangal register, SLR Certificates indicated that the land stands in the name of their predecessor in title and ryotwari patta granted by the Collector of Madurai in L.Dis.No.4307 of 1946 registered as Puthukulam and now the said land is classified as Puthukulam Kanmai without any basis. Hence, the petitioners made a representation to the DRO seeking for correction in the UDR scheme.

3. Subsequently, the petitioners made a representation before the third respondent on 17.03.2014 seeking for issuance, which was not acted for at the first instance, hence, the petitioners filed a writ petition in W.P.No.16005 of 2019 which was disposed of. Pursuant to the same, the petitioners as directed by this Court, made a representation before the third respondent on 06.08.2019, after completing enquiry passed the impugned order dated 23.11.2020 holding that the petition for grant of patta under Section 15(2) of ACT XXVI of 1948 cannot be considered as per rules in force as per G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, 29.06.1987 as the petition is barred by limitation. The petitioners challenged the said rejected order before this



WP.No.26143 of 2022

Court in W.P.No.234 of 2021 and this Court by order dated 06.12.2021 set aside the rejected order and remanded the matter back to the third respondent herein for fresh consideration and directed to pass orders within a period of twelve weeks. The grievance of the petitioner is that the third respondent without conducting enquiry and giving opportunities passed the impugned order rejected the petitioners application. Hence, this petition.

4. The learned counsel for the petitioner submitted that the description in the government records is not conclusive of the issue of the characted of the land in granting the Ryotwari Patta and further submitted that when there is a proof of ownership and the land is known to be Ryotwari land since inception, the description as poramboke kammai land is not conclusive of the character of the land in granting patta. Since, the patta was issued to the predecessor of the title in the subject land and denying the same to the subsequent purchaser is arbitrary, illegal and non-est in law. Hence, he prayed for allowing this writ petition.

5. Heard both sides and perused the materials placed on record. On a threadbare analysis of the case file, it appears that the State Government has granted the subject land in favour of Lakshmana Pillai vide L.Dis.No.



WP.No.26143 of 2022

4307/1946 on 19.07.1946, for temporary occupation and agricultural purpose, from 01.07.1946 based on the Board Standing Order No. 15-A. Such grant is only for a period of ten years commencing from 01.07.1946 in terms of B.S.O.No.15-A and subject to payment of Rs. 2315 as and for security for the fulfillment and observance. Such grant is for a period of ten years and the same is expired in the year 1956 itself. However, no record was placed for extension of the said lease and this Court also perused the patta issued by the Tahsildar on 14.05.1970 in favour of the said Lakshmana Pillai. However, no crops were mentioned and the lease land extension is also not mentioned in the said patta and subsequently, the said Lakshmana Pillai alienated the property to one Balu, which was further sold to Mr.Anbukai.

6. Further, on perusal of the order of the third respondent would make it clear that the subject land is classified as Puthukulam Kanmai Poramboke, which is a water body. Hence, this Court is of the firm view that either this Court or the Government has no power to alienate the water body to any individual.

7. Therefore, the prayer sought for by the petitioner cannot be granted and



WP.No.26143 of 2022

this writ petition is dismissed in limine with the above observations. No costs.

Consequently, connected miscellaneous petition is closed.

29.09.2022

dhk

Index: Yes/No

Internet: Yes/No

To

1.The Additional Principal Secretary
and Commissioner of Land Administration
Survey and Settlement Department
Chepauk
Chennai – 600 005

2.The Director and Commissioner
Survey and Settlement Department
Survey House
Chepauk, Chennai – 600 005

4.The District Collector
Madurai District, Madurai

5.The Tahsildar
Madurai North Taluk
Madurai

M. DHANDAPANI, J.



WEB COPY



WP.No.26143 of 2022

dhk

W.P.No.26143 of 2022

29.09.2022
(1/2)