



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**W.A(MD)Nos.177 of 2010 and 253 of 2011
and**

M.P(MD)No.1 of 2011

in

W.A(MD)No.253 of 2011

W.A(MD)No.177 of 2010:

- 1.M.M.V.Muthu Ibrahim Levvai
- 2.M.M.V.Thangammal @ Mohammed Sulaiha
- 3.M.M.V.Rasia Begam
- 4.M.M.V.Mahamoodha Begam
- 5.Syed Abubakkar Badhusa Levvai
- 6.Moominal Beevi
- 7.Aysha Ammal
- 8.Syed Fathima

:Appellants/Petitioners

.vs.

- 1.The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai.
- 2.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 3.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.
- 4.The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.
- 5.The President,
Ervadi Village Panchayat,
Ramanathapuram District.



6.Masthan P.S.Syed Ahamed

7.H.Sulthan Ibrahim

: Respondents/Respondents

(R5 impleaded vide order dated 09.02.2011
made in M.P(MD)No.1 of 2011)

(R6 impleaded as party respondent vide order
dated 08.06.2011 made in M.P(MD)No.2 of
2011 in W.A(MD)No.177 of 2010)

(7th Respondent impleaded vide order
dated 23.03.2022 made in M.P(MD)No.1 of
2014 in W.A(MD)No.177 of 2010)

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 19.08.2009 passed in W.P(MD)No.2961 of 2005.

Prayer in WP(MD). 2961/ 2005 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorari, calling for the records relating to the order passed by
the 1st respondent in his proceedings R.C.No.G2/39902/01 dated
10.3.2005 and quash the same in so far as it relates to
S.Nos.407/16,22,20,24,15,21,14,13,23,25, Ervadi Village,
Ramanathapuram District

For Appellants

:Mr.M.Ajmal Khan,
Senior Counsel for
M/s.Ajmal Associates

For R-1 to R-4

:Mr.V.Nirmal Kumar,
Government Advocate

For R-5

:Mr.Anwar Sameem

For R-6

:No Appearance

For R-7

:Mr.G.Vidhya Maheswaran

W.A(MD)No.253 of 2011:

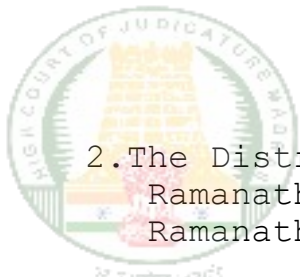
The Ervadi Dargha Haghdhar
Management Committee,

Rep. by its Secretary P.S.Siddique Levvai

... Appellant /Petitioner

.vs.

1.The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai.



2.The District Collector of
Ramanathapuram District,
Ramanathapuram.

3.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

4.The Sub-Collector,
Paramakudi, Ramanathapuram District.

5.The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.

6.The President,
Ervadi Panchayat,
Kadaladi Union,
Ramanathapuram.

7.P.S.Syed Levvai

8.Jahangir Sulthan Levvai

9.Jamim Abdul Kafoor Levvai ... Respondents/Respondents
(Respondents 7 to 9 were impleaded as per the order dated 23.01.2006
in W.P.M.P.NO.11485 OF 2005)

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 19.08.2009 passed in W.P(MD)No.3757 of 2005.

Prayer in WP(MD). 3757/ 2005 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court Pleased to issue Writ of
Certiorarified Mandamus or direction calling for the records
relating to the order passed by the 1st respondent in his
proceedings R.C.No.G.2/39902/01 dated 10.03.2005 and quash the same
in so far as it relates to survey No.407 and Survey No.516 Eravadi
Village, Ramanathapuram district and direct the 2nd respondent to
hold enquiry and cancel the illegal assignment in so far as it
concern with the S.No.407/24,407/15,407/21,407/14,407/13,
407/23,407/25 Ervadi village, Ramanathapuram district.

For Appellant	:Mr.V.Nagarajan
For R-1 to R-5	:Mr.V.Nirmal Kumar, Government Advocate
For R-6	:Mr.Anwar Sameem
For R-7 to R-9	:Mr.S.Meenakshi Sundaram, Senior Counsel for Mr.Arivu Kumar



COMMON JUDGMENT

R. SUBRAMANIAN, J.

AND

N. SATHISH KUMAR, J.

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These two writ appeals are by the petitioners in W.P(MD) Nos.2961 of 2005 and 3757 of 2005.

2. In the said writ petitions, the petitioners sought for issuance of a Writ of Certiorari calling for the records of the Special Commissioner and Commissioner of Land Administration in R.C.No.G2/39902/01, dated 10.03.2005 and to quash the same insofar as it relates to Survey Nos.407/16, 22, 20, 24, 15, 21, 14, 13, 23 and 25 of Ervadi Village, Ramanathapuram District. In W.P(MD) No.3757 of 2005, an additional prayer was asked seeking assignment of the said land.

3. The brief facts that led to the filing of the appeals are as follows:

It appears that there was a dispute between the Fire Service Department and Ervadi Panchayat, with reference to the land in Survey Nos.502 and 504 measuring an extent of 0.34.5 hectares and 1.61.0 hectares. In view of the said disputes, those lands were entered into the Prohibitory Book. Aggrieved by the said entry, the panchayat had moved the Commissioner of Land Administration seeking to lift the prohibition. In the course of said proceedings, the Commissioner of Land Administration, thought it fit to direct the District Collector, to take steps for cancellation of Natham pattas issued in respect of the land in Survey Nos.407 and 516. Contending that they were not heard and no notice was issued by the Commissioner, the petitioners had come up with the writ petitions. The Writ Court however dismissed the writ petitions on the ground that the petitioners will be afforded an opportunity by the District Collector in the enquiry, which he would conduct pursuant to the order of the Commissioner, for removal of prohibitory entry.

4. We have heard Mr.M.Ajmal Khan, learned Senior Counsel appearing for the appellant in W.A(MD)No.177 of 2010, Mr.V.Nagarajan, learned counsel for the appellant in W.A(MD)No.253 of 2011, Mr.V.Nirmal Kumar, learned Government Advocate for respondents 1 to 4 in W.A(MD)No.177 of 2010 and for Respondents 1 to 5 in W.A(MD)No.253 of 2011, Mr.Anwar Sameem, learned counsel for R-5 in W.A(MD)No.177 of 2010 and for R-6 in W.A(MD)No.253 of 2011, Mr.G.Vidhya Maheswaran, learned counsel for R-7 in W.A(MD)No.177 of 2010 and Mr.S.Meenakshi Sundaram, learned Senior Counsel for Mr.Arivu Kumar, learned counsel for R-7 to R-9 in W.A(MD)No.253 of 2011.

<https://hcservices.ecourts.gov.in/hcservices/>



5. Mr.M.Ajmal Khan, learned Senior Counsel appearing for the appellant in W.A(MD)No.177 of 2010 and Mr.V.Nagarajan, learned counsel appearing for the appellant in W.A(MD)No.253 of 2011, would contend that the Commissioner erred in directing cancellation of the Natham pattas granted to the appellants in respect of Survey Nos.407 and 516 without even hearing them. Pointing out that the application of the panchayat was for removal of prohibitory entries regarding Survey Nos.502 and 504, the learned counsel would submit that the Commissioner was not justified in dealing with other survey numbers and instructing cancellation of pattas granted to them. The patta issued to the appellants was not put in issue before the Commissioner.

6. Mr.V.Meenakshi Sundaram, learned Senior Counsel appearing for the respondents 7 to 9 in W.A(MD)No.253 of 2011, would also support the case of the appellants.

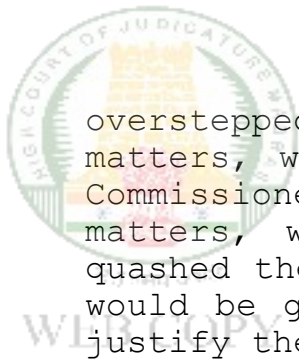
7. Mr.Anwar Sameem, learned counsel appearing for the panchayat, would submit that the panchayat sought for lifting the entries of prohibition relating to Survey Nos.502 and 504 and the application was not concerned with Survey Nos.407 and 516. Therefore, even according to him, the Commissioner had overstepped and directed cancellation of pattas issued to the appellants in respect of Survey Nos.407 and 516.

8. Mr.V.Nirmal Kumar, learned Government Advocate, is in an unenviable position and is unable to support the conclusion of the Commissioner. It is also seen that Additional Director, District Survey Officer, Ramanathapuram, in his report dated 18.02.2022, has stated that the appellants had not encroached upon any Government land and the same was reiterated by the Tahsildar, Keelakarai, in his report dated 28.02.2022.

9. The Writ Court has also come to the conclusion that the Commissioner had overstepped his brief and had directed cancellation of pattas. The Writ Court however felt that since the appellants would be given an opportunity before the District Collector, it was not necessary to interfere with the same.

10. We are unable to sustain the conclusion of the Writ Court. Once the Superior Officer namely the Commissioner of Land Administration, directed cancellation of pattas, provision of opportunity by the District Collector in the enquiry, would not be a sufficient opportunity.

11. Moreover, we find that the dispute before the Commissioner was not with reference to Survey Nos.407 and 516. The dispute before the Commissioner was entirely different and it was in relation to the prohibitory entries made in respect of Survey Nos.502 and 504. We therefore, find that the Commissioner had



overstepped his brief and had issued directions in respect of the matters, which were not before him. Once it is found that the Commissioner had overstepped and issued orders with reference to the matters, which were not before him, the Writ Court should have quashed the order. The fact that the appellants / writ petitioners would be given an opportunity before the District Collector cannot justify the overstepping by the Commissioner.

12. Moreover, a positive direction to cancel the pattas, which was not the subject matter of the proceedings before him, in our opinion, was not warranted and it was beyond the jurisdiction of the Commissioner. Hence, the Writ Appeals are allowed and the orders of the writ Court will stand set aside. The writ petitions in W.P(MD)Nos.2961 of 2005 and 3757 of 2005 will stand allowed and the impugned proceedings of the Commissioner, will stand quashed in respect of the lands in Survey Nos.407 and 516. The order of the Commissioner will be confined only to the prohibitory entries in respect of Survey Nos.502 and 504 of Ervadi Village. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

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/ /2022

Sub Assistant Registrar(CS)

pm

To

- 1.The Special Commissioner and
Commissioner of Land Administration, Chepauk, Chennai.
- 2.The District Collector of
Ramanathapuram District, Ramanathapuram.
- 3.The District Revenue Officer,
Ramanathapuram, Ramanathapuram District.
- 4.The Sub-Collector,
Paramakudi, Ramanathapuram District.
- 5.The Tahsildar,
Kadaladi Taluk, Ramanathapuram District.
- 6.The President,
Ervadi Village Panchayat,
Ramanathapuram District.



+3 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-15563[F] dated 31/03/2022)

+1 CC to M/s.SPL GP (SR-15715[F] dated 31/03/2022)

+2 CC to M/s.V.NAGARAJAN, Advocate (SR-16156 & 16155[F] dated 01/04/2022)

+3 CC to M/s.M.SENGU VIJAY(SR-15517[F] dated 31/03/2022)

**JUDGMENT MADE IN
W.A(MD)Nos.177 of 2010 and 253 of 2011
30.03.2022**

NSN(CO)
TR(19.04.2022) 7P 16C