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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.1120 of 2013

1.N.Jayaraman
2.Dhanalakshmi
3.Meenakshiammal
4.R.Amutha
5.N.Vasantha
6.M.O.Pandiayan
7.K.Pandiyarajan
8.Dhanapackiam
9.K.Kamaraj
10.Panneerselvam
11.Subbulakshmi
12.G.Krishnan
13.A.Muthu
14.R.Banumathi
15.Parvathi Ammal
16.Mookayi
17.Ayanar
18.Murugan
19.C.Krishnan
20.Rajammal
21.C.Ramuthai
22.Pon Archunan
23.Alagammal
24.A.Chinnaiya
25.P.Easwari
26.V.Rajendran
27.V.Saroja ... Petitioners

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Vs.

1.The Government of Tamil Nadu,
represented by its Chief Secretary,
Fort Saint George, Chennai.

2.The District Collector,
Madurai District, Madurai.

3.The Tahsildar,
Vadipatti Taluk, T.Vadipatti,
Madurai District.

4.The President,
Keela Nachikulam Panchayat,
Vadipatti Panchayat Union,
Madurai District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in O.Mu.No.8692/12/B2, dated 11.07.2012, on the file of the 3rd respondent and to quash the same and further, to direct the respondents to grant patta to the petitioners in accordance with G.O.Ms.No.2441, dated 31.12.1968.

For Petitioners : Mr.G.Prabhu Rajadurai
For Respondents : Mr.D.Sasikumar
Additional Government Pleader

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O R D E R

The present writ petition is filed challenging the order, dated 11.07.2012 passed by the 3rd respondent herein under which the request

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of patta by the petitioner was rejected on the ground that it is a water body.

2.The learned Additional Government Pleader appearing for the respondents submits that a civil suit was filed. According to him, the suit in O.S.No.116 of 1973 has been filed before the District Munsif Court, Madurai Taluk at Madurai, against the State of Tamil Nadu, seeking a decree for permanent injunction not to grant any patta or assignment order in favour of the encroachers of the water body and for a mandatory injunction for the removal of the encroachments. The said suit was dismissed by the Trial Court. However, on appeal in A.S.No.14 of 1976, the learned Subordinate Judge, Madurai, has dismissed the same. The said judgment and decree has become final. Based upon the said judgment and decree, the Government is said to have initiated execution proceedings and removed the encroachments made by the writ petitioners who are beneficiaries of the order of assignment.

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3.However, the learned Counsel appearing for the petitioner submits that since they were not parties to O.S.No.116 of 1973, they have filed O.S.No.426 of 1991, to set aside the judgment and decree in O.S.No.116 of 1973. According to the petitioner, the said decree was exparte on 02.12.1992.

4.The learned Counsel appearing for the official respondents submitted that since the decree in O.S.No.116 of 1973 has already been executed and the petitioners are not in possession of the property and the property being the water body, the question of granting patta in favour of the writ petitioners does not arise.

5.Considering the above said facts, the petitioners were granted an order of assignment on 31.12.1968 and the said order of assignment has been nullified by the Civil Court on the ground that it is a water body. Considering the further fact that the petitioners are members of ex-servicemen association, the second respondent is directed to consider the request of the petitioners for grant of assignment of a different survey

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number other than the survey number for which it was rejected under the impugned order, dated 11.07.2012.

6.With the above said observations, the writ petition is disposed of. No costs.

30.08.2022

Index : Yes / No
Internet : Yes / No

Tmg

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3.The Tahsildar,
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4.The President,
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Vadipatti Panchayat Union,
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R.VIJAYAKUMAR ,J.

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Order made in
W.P.(MD).No.1120 of 2013

30.08.2022

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