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W.P.(MD).No.360 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 18.07.2011

ORDER PRONOUNDED ON : 20 .07.2022

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.360 of 2012
and MP(MD).No.2 of 2012**

- 1.Mohammed Sherif
- 2.Inaiyathulla
- 3.Niyamathulla
- 4.Hidhayathulla
- 5.Rahamathulla
- 6.Sherina Begum
- 7.Kadhar Mohideen
- 8.Sahupar Nisha
- 9.Fathima Begum
- 10.Rasul Maideen
- 11.Shasha Bibi
- 12.Rajitha Begum
- 13.Rassia Begum
- 14.Sabura Begum



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15.Hussian

16.Sabiyah

....Petitioners

(All the petitioners are represented through their
Power Agent namely M.Krishnan)

Vs

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

2.The District Collector
Tirunelveli District
Tirunelveli

3.Mohammed Roorkhan Pani

4.Mohammed Jaferkhan Pani

....Respondents

(Respondents 3 & 4 are impleaded vide order dated 08.06.2022)

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Rc.K1/12304/2010 dated 25.02.2011 and quash the same and consequently direct the respondents to forthwith issue patta for the lands in S.No.723/1 to 897, Urumankulam Village, Radhapuram Taluk, Tirunelveli District.

For Petitioner	: Mr.D.Venkatesh
For R1 & R2	: Mr.N.Muthuvijayan Special Government Pleader
For R3 & R4	: Mr.V.Meenakshi Sundaram



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ORDER

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The present writ petition has been filed challenging an order passed by the first respondent herein under which the request of the petitioners for grant of Patta was rejected by the impugned order dated 25.02.2011.

2. The sixteen petitioners are being represented by their power agent. According to the affidavit filed by the power agent, the petitioners are legal heirs of one Misirikhan Pani. The said Misirikhan Pani was an Inamdar of several acres of land under various survey numbers in Radhapuram Taluk, Tirunelveli District. The said Misirikhan Pani was in enjoyment of the land through his personal cultivation and through tenants. The petitioners have further contended that under the Estate Abolition Act, those lands were taken over by the Government as Ryotwari lands. Though the said Misirikhan Pani had challenged the proceedings, he had died during the pendency of the appeal. As the legal heirs of the Misirikhan Pani could not properly prosecute the said appeal, the appeal was decided in favour of the Government.

3. According to the learned counsel for the petitioners, in the year 1996, the Government had erroneously classified the lands of Misirikhan Pani as Government poromboke. The petitioners had made an application to the second respondent herein challenging the said classification and requesting



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the grant of patta. However, the second respondent by his order dated 06.02.2009, had rejected the said request on the ground that the objections should have been raised within a period of three years after classification has been made. Thereafter, the petitioners approached the first respondent herein. Though the petitioners have produced documents and the written submissions, the first respondent had passed the impugned order on 25.02.2011 rejecting the request of the writ petitioners. Hence, the present writ petition.

4.The learned counsel for the petitioners had contended that the petitioners are the legal heirs of one Misirikhan Pani who was the original owner of the properties and due to efflux of time, the documents are not traceable. The learned counsel had further contended that a perusal of 'A' register will clearly show that the said Misirikhan Pani was the original owner of the properties.

5.On the other hand, the learned counsel for the respondents impleaded the respondents namely respondents 3 and 4 contended that the writ petitioners are not the legal heirs of the said Misirikhan Pani. They are the children of Misirikhan Pani through his concubine Muthu Goundachi @ Shafiya Begum. The eldest son of the said Muthu Goundachi @ Shafiya



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Begum by name Karim Khan Pani Saheeb filed a suit in O.S.No.65 of 1961 against Mohammed Shafi Khan S/o. Misirikhan Pani through his wife Meharunisha Begum on the file of the Sub Court, Tirunelveli. Whether the said Shafiya Begum was the legally wedded wife or not was the main issue in the said suit. The Court ultimately found that Shafiya Begum is not the legally wedded wife of Misirikhan Pani. According to the learned counsel for the respondents, the descendants of Muthu Goundachi @ Shafiya Begum cannot make any claim over the properties of the Misirikhan Pani as his legal heirs. He had further contended that the petitioners 1 to 5 in the writ petition are the legal heirs of one Rajitha Begum who is none other than the daughter of Muthu Goundachi @ Shafiya Begum. Petitioners 8 and 9 are the grandchildren of one Basheer Khan who is none other than the son of Muthu Goundachi @ Shafiya Begum. The 12th petitioner is the daughter of Muthu Goundachi @ Shafiya Begum. The other petitioners namely 6, 7, 10, 11 and 13 to 16 are not known to them. Hence, according to the learned counsel for the petitioners, the mother of the petitioners 1 to 5 herein was already declared to be not the legal heir of the said Misirikhan Pani.

6.The learned counsel for the respondents had further contended that around 70% of the properties for which Patta is now claimed by the writ petitioner is the property of one Khanmian Pallivasal. The title of the said



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Khanmian Pallivasal was disputed by the Tamil Nadu Government contending that it is the Government poromboke. Hence, the said Pallivasal had filed O.S.No.299 of 2011 before the Sub Court, Tirunelveli. In the said suit, Tamil Nadu Wakf Board was arrayed as the second defendant. The suit came to be decreed as prayed for on 18.08.2016. The trial Court had relied upon the proforma report of the Tamil Nadu Wakf Board and arrived at a finding that it is a Wakf property. The said order has been challenged by the Government in CRP.No.2161 of 2018 and the same is pending. Hence, viewed from any angle, the property does not belong to the petitioners. Hence, he prayed for dismissal of the writ petition.

7.The learned Special Government Pleader appearing for the official respondents had contended that the property is not the Wakf property and it is the Government poromboke and the issue is now pending in CRP.No.2161 of 2018.

8.I have considered the submissions made on either side.

9.In Paragraph No.2 of the writ petition, the writ petitioners have made a claim to the property in dispute, only as legal heirs of Misirikhan Pani. However, they have not explained in what manner they are related to the original owner namely Misirikhan Pani. The documents filed on the side of the respondents especially the judgment in O.S.No.65 of 9161 will disclose



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that the mother of the petitioners herein has been declared that she is not the legally wedded wife of Misirikhan Pani. In the decree in O.S.No.299 of 2011, the Civil Court has held that the properties belong to Pallivasal. In the impugned order, the first respondent herein has categorically found that the writ petitioners have not proved their entitlement over the lands in question under relevant provisions of the Act 26 of 1963 to get patta. Though they did not get Patta under the Act, it was open to them to file an appeal before the Tribunal constituted under Act 26 of 1963 within a period of three months. However, they have not approached the Tribunal also. The authorities have categorically found that the claim is barred by limitation and preferred before a wrong forum. The authorities have proceeded to arrive at a finding that the claimant is trying to play fraud before the forum by producing a counterfeit 'A' register of Urumankulam Village. With the above said findings, the claim of the petitioners for grant of patta has been rejected under the impugned order.

10. In view of the two Civil Courts judgments, the petitioners have not established their legal status and the character of the property for which they are attempting to get Patta. That apart, the findings of the first respondent herein clearly points out that the petitioners are attempting to hoodwink the authorities and trying to get Patta.



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11.I do not find any merit in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20 .07.2022

Internet : Yes/No
Index : Yes/No
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To

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Commissioner of Land Administration
Chepauk, Chennai

2.The District Collector
Tirunelveli District
Tirunelveli



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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