



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.12.2022
DELIVERED ON : 06.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.8883, 8884, 14302 & 14303 of 2013
and
M.P(MD)Nos.1, 1, 2, 1, 2, 1 & 2 of 2013

W.P(MD)No.8883 of 2013

S.Abida Beevi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Revenue,
Fort St. George,
Chennai-600 009.

2.The Special Commissioner,
and Commissioner of Land Administration,
Chepauk,
Chennai-600 005.

3.The District Collector of Ramanathapuram,
Collectorate Complex,
Ramanathapuram.

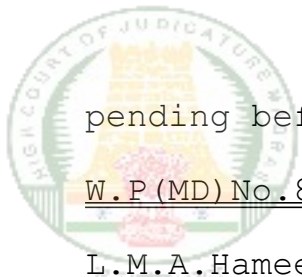
4.The Tahsildar,
Taluk Office,
Vandikara Street,
Ramanathapuram.

5.S.Ramasamy

... Respondents

(Respondent No.5 is impleaded vide Court order, dated 17.10.2022, in M.P(MD)No.2 of 2013 in W.P(MD)No.8883 of 2013)

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 impugned order passed by the third respondent, dated 06.05.2013, in his O.M./9267/13 (B2) and quash the same and direct the third respondent to grant patta in respect of the lands to an extent of 4 acres 90 cents in S.No.32/3 Palkulam Village, Sathakone Valasai Group, Ramanathapuram Taluk and District in petitioner favour and also in pursuance of petitioner's representation, dated 08.10.2007, which is



pending before the third respondent.

W.P(MD)No.8884 of 2013

L.M.A.Hameetha Beevi (Died)
Mohamed Noorul Ameen (Died)

... Petitioners (Deceased)

1.Mohamed Kamila Beevi
2.Abida Beevi
3.Inul Arifa Beevi
4.Inul Shareefa

... Petitioners

(Petitioner Nos.1 to 4 are substituted vide Court order, dated 21.09.2022, in W.M.P(MD)No.18650 of 2021 in W.P(MD)No.8884 of 2013)

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Revenue,
Fort St. George,
Chennai-600 009.

2.The Special Commissioner,
and Commissioner of Land Administration,
Chepauk,
Chennai-600 005.

3.The District Collector of Ramanathapuram,
Collectorate Complex,
Ramanathapuram.

4.The Tahsildar,
Taluk Office,
Vandikara Street,
Ramanathapuram.

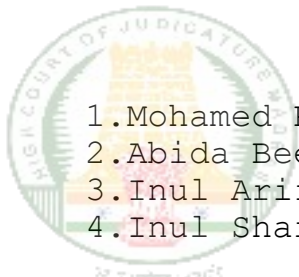
... Respondents

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 impugned order passed by the third respondent, dated 06.05.2013, in his O.M./9267/13 (B2) and quash the same and to direct the third respondent to grant patta in respect of the lands to an extent of 4 acres 90 cents in S.No.32/3 Palkulam Village, Sathakone Valasai Group, Ramanathapuram Taluk and District in petitioner favour and also in pursuance of petitioner's representation, dated 08.10.2007, which is pending before the third respondent.

W.P(MD)No.14302 of 2013

L.M.A.Hameetha Beevi (Died)
Mohamed Noorul Ameen (Died)

... Petitioners (Deceased)



- 1.Mohamed Kamila Beevi
- 2.Abida Beevi
- 3.Inul Arifa Beevi
- 4.Inul Shareefa

... Petitioners

(Petitioner Nos.1 to 4 are substituted vide Court order, dated 21.09.2022, in W.M.P(MD)No.7725 of 2021 in W.P(MD)No.14302 of 2013)

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Revenue,
Fort St. George,
Chennai-600 009.
- 2.The Special Commissioner,
and Commissioner of Land Administration,
Chepauk,
Chennai-600 005.
- 3.The District Collector of Ramanathapuram,
Collectorate Complex,
Ramanathapuram.
- 4.The Tahsildar,
Taluk Office, Vandikara Street,
Ramanathapuram.
- 5.The District of Fisheries Department,
Fisheries Department,
Administration Office Building, Teynampet,
Chennai-600 006.
- 6.The Assistant Director of Fisheries,
Fisheries Department,
Ramnad.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the third respondent, dated 03.06.2013, in his No.Na.Ka.B4/1334/2013 and quash the same.

W.P(MD)No.14303 of 2013

S.Abida Beevi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Revenue,



Fort St. George,
Chennai-600 009.



2.The Special Commissioner,
and Commissioner of Land Administration,
Chepauk,
Chennai-600 005.

3.The District Collector of Ramanathapuram,
Collectorate Complex,
Ramanathapuram.

4.The Tahsildar,
Taluk Office,
Vandikara Street,
Ramanathapuram.

5.The District of Fisheries Department,
Fisheries Department,
Administration Office Building, Teynampet,
Chennai-600 006.

6.The Assistant Director of Fisheries,
Fisheries Department,
Ramnad.

7.S.Ramasamy ... Respondents

(Respondent No.7 is impleaded vide Court order, dated 17.10.2022, in M.P(MD)No.3 of 2013 in W.P(MD)No.14303 of 2013)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the third respondent, dated 03.06.2013, in his No.Na.Ka.B4/1334/2013 and quash the same.

(W.P(MD)No.8883 of 2013)

For Petitioners : Mr.M.Ajmal Khan
Senior Counsel
for M/s.A.S.Mujibur Rahman
For R-1 to R-4 : Mr.A.Baskaran
Additional Government Pleader
For R-5 : Mr.R.Rajaraman

(W.P(MD)No.8884 of 2013)

For Petitioners : Mr.M.Ajmal Khan
Senior Counsel
for M/s.A.S.Mujibur Rahman
For Respondents : Mr.A.Baskaran
Additional Government Pleader



WEB COPY



(W.P(MD)No.14302 of 2013)

For Petitioners : Mr.M.Ajmal Khan
Senior Counsel
for M/s.A.S.Mujibur Rahman
For Respondents : Mr.A.Baskaran
Additional Government Pleader

(W.P(MD)No.14303 of 2013)

For Petitioners : Mr.M.Ajmal Khan
Senior Counsel
for M/s.A.S.Mujibur Rahman
For R-1 to R-6 : Mr.A.Baskaran
Additional Government Pleader
For R-7 : Mr.R.Rajaraman

COMMON ORDER

W.P(MD)Nos.8883 and 8884 of 2013 have been filed challenging an order passed by the District Collector, under which, the request of the petitioners for grant of assignment patta has been rejected for S.No.32/3 having an extent of 4.90 acres in Palkulam Village, Ramanathapuram District.

2. W.P(MD)Nos.14302 and 14303 of 2013 have been filed challenging an order of the District Collector, under which, he has granted enter upon permission to the Tamil Nadu Fisheries Department to enter into S.No.32/3 in Palkulam Village, Ramanathapuram District for construction of an industry.

The learned Senior Counsel appearing for the writ petitioners in all these writ petitions has contended as follows:

3. S.Nos.31/1, 32/1 to 3 in Palkulam Village, Sathakone Valasai Group, Ramanathapuram Taluk and District originally was in possession and enjoyment of late S.V.Mohamed Abdul Khadar, having an extent of 24.30 acres. He had died intestate leaving behind his five sons, namely, Mohamed Jamaludeen, Mohamed Sathakathulla, Abdul Majeeth, Ahmed Jamaludeen and Seyed Kasim. After the death of the said S.V.Mohamed Abdul Khadar, each one of the five sons are entitled to an order of assignment of 4 acres and 90 cents. Out of the 5 sons, an order of assignment has already been granted in favour of three sons, namely, Mohamed Sathakathulla, Abdul Majeeth and Ahmed Jamaludeen.

4. The learned Senior Counsel further contended that all the five sons have made an application on 07.12.1959 and they were directed to deposit a sum of Rs.887.25/- for the lands and the trees that were standing therein by an order, dated 30.08.1961. Accordingly, all the five sons have paid the said amount in the Sub Treasury, Ramanathapuram on 11.09.1961 and hence, each one of them are entitled to an order of assignment for an extent of 4.90 acres.



5. The learned Senior Counsel further contended that the order of assignment has been granted in favour of three sons in the years 1960 and 1961. Only the legal heirs of Mohamed Jamaludeen and Seyed Kasim were not issued with the order of assignment. Before the procedures could be completed, G.O.Ms.No.812 Revenue Department, dated 16.03.1964, was passed imposing ban on assignment of land in view of the proposed Sethu Samuthiram Project. The learned Senior Counsel for the petitioner contended that, even before the said Government order, the petitioners have deposited the amount that was demanded by the revenue authorities for grant of assignment.

6. The learned Senior Counsel further contended that the petitioners have made an application to the second respondent herein on 08.10.2007. The said application was forwarded to the third respondent and the petitioners were directed to approach the third respondent. However, the third respondent did not pass any orders. Hence, the petitioner had filed W.P(MD)No.1152 of 2013 for a Writ of Mandamus, directing the third respondent to grant patta. When the writ petition was pending, the third respondent has passed the impugned order on 06.05.2013, rejecting the representation of the petitioners for grant of patta.

7. The third respondent has assigned the following two reasons for rejecting the request for an order of assignment:

"(a) The Tahsildar had passed an order on 26.04.2013, allotting an extent of 3.96.5 hectares of land in S.No.32/3 to the Fisheries Department for construction of a factory.

(b) The said survey number falls within the zone under the prohibition orders due to Sethu Samuthiram Project."

8. The learned Senior Counsel by relying upon additional typed set of papers had contended that by way of an order, dated 03.06.2013, the third respondent had granted enter upon permission to the Fisheries Department with regard to the same survey number, namely, 32/3 and the same has been cited as one of the reasons for rejecting the request of assignment order. The said order, dated 03.06.2013, is under challenge in W.P(MD)Nos.14302 and 14303 of 2013 by the writ petitioners.

9. The learned Senior Counsel further contended that an order, dated 03.06.2013, passed by the District Collector granting enter upon permission to the Fisheries Department was recalled by the same District Collector by an order, dated 10.10.2013. Thereafter, in the same order, enter upon permission has been granted to the Fisheries Department to another survey number, namely, 24/3 in the same Village. Therefore, according to the learned Senior Counsel for the petitioner, the proposed factory by the Fisheries Department in S.No.32/3 has been dropped and they have moved to another survey number, namely, 24/3. Hence, the reason projected by the District



Collector in his impugned order, dated 03.06.2013, no survives.

10. The learned Senior Counsel further contended that the petitioners were called upon to pay a sum of Rs.887.25/- as value of the assigned lands by an order, dated 07.12.1959. The said amount was deposited on 11.09.1961. Only thereafter, G.O.Ms.No.812, dated 16.03.1964, was passed, imposing ban on assignment of lands in that locality. Hence, such a ban cannot be put against the writ petitioners. That apart, the other three sons of S.V.Mohamed Abdul Khadar have been granted an order of assignment and the said orders have not been disturbed by the revenue authorities in view of such a ban.

11. The learned Senior Counsel further contended that a ban order cannot be enforced for more than 45 years expecting Sethu Samuthiram Project to take off. According to the learned Senior Counsel, as per the Revenue Standing Orders, the Government is always at liberty to resume the land, if it is required for any public purpose. The conditions imposed in the order of assignment will clearly indicate that the Government is at liberty to resume the lands for any public purpose. He further pointed out that, in case, if there is any ban, the District Collector would not have granted enter upon permission for construction of a factory by the Fisheries Department either for S.No.32/3 or for S.No.24/3, which are located in the same Village.

12. The learned Senior Counsel further contended that the petitioners are waiting for assignment of land, after paying the amount as directed by the authorities in the year 1961. Hence, he prayed for setting aside the impugned order and for grant of patta in respect of the lands mentioned in the prayer.

Contention of the official respondents:

13. Per contra, the learned Additional Government Pleader appearing for the official respondents had contended that there is a ban order for assignment of any land in the said locality from the year 1964 onwards in view of the Sethu Samuthiram Project. The ban has not yet been lifted and hence, the request of the petitioner for grant of assignment cannot be considered.

14. The learned Additional Government Pleader further contended that S.No.32/3 was originally allotted in favour of the Fisheries Department for construction of a factory. Though a new enter upon order has been issued for the Fisheries Department by an order, dated 10.10.2013, so far the Fisheries Department have not taken possession of the new survey number, namely, 24/3 and hence, it cannot be considered that the enter upon order for S.No.32/3 has already been cancelled. Hence, he prayed for dismissal of the writ

**Contention of the private respondent:**

15. The learned Counsel appearing for the private respondent had contended that in the midst of the land which is intended to be assigned in favour of the writ petitioners, there is a thar road, which is the only access to the Ramanathapuram Main Road. According to the petitioner, the said road is situated in S.No.32/3, which is used by the Villagers for more than 300 years. If any order of assignment is granted in favour of the petitioners that would greatly affect the Villagers of that locality. He further contended that electrical posts have been erected by the Tamil Nadu Electricity Board and street lights have also been fixed in the year 1980. He further contended that for the welfare of the people of that locality, the Government of Tamil Nadu has announced a Fish Processing Park in S.No.32/3 for an extent of 3.96.5 hectares. Any order of assignment in favour of the private parties would affect the livelihood of the general public of that Locality. Hence, he prayed for dismissal of the writ petition.

Discussion:

16. I have carefully considered the submissions made on either side.

17. Each of the petitioners have sought for an assignment of 4.90 acres by way of an application, dated 07.12.1959. The petitioners were directed to deposit a sum of Rs.887.25/- for the land as well as the trees standing on it by the official respondents by an order, dated 30.08.1961. Based upon the said order, the petitioners have already deposited the said amount on 11.09.1961 in the Sub Treasury, Ramanathapuram. All the five sons of Mohamed Abdul Khadar had made their application on 07.12.1959. Out of the five sons, three of them have been granted patta in the years 1960 and 1961. Before assignment patta could be granted in favour of the other two sons, G.O.Ms.No.812, dated 16.03.1964 has been published imposing a ban on further assignment in view of the proposed Sethu Samuthiram Project. Therefore, it is clear that the claim of the petitioners for assignment has been accepted by the authorities in the year 1961 itself and the land cost has been paid by the petitioners in the year 1961 as directed by the authorities. These facts are not in dispute.

18. The present impugned order has been passed by the District Collector on 06.05.2013, rejecting the request of the petitioners for grant of patta on two grounds, namely, that enter upon permission has been granted to the Fisheries Department for putting up a Fish Processing Park and there is a ban order of assignment of land in view of the Sethu Samuthiram Project.

19. As rightly pointed out by the learned Senior Counsel



appearing for the writ petitioners, originally an order passed by the District Collector granting enter upon permission to the Fisheries Department on 03.06.2013 for S.No.32/3. However, the said order has been recalled by an order, dated 10.10.2013 and another survey number, namely, 24/3 has been allotted to the Fisheries Department, granting enter upon permission to them to put up a Fish Processing Park. Therefore, it is clear that S.No.32/3 is not subjected to any other use by the Government as on today.

20. The Government of Tamil Nadu has issued G.O.Ms.No.812, dated 16.03.1964, imposing a ban upon assignment of land in view of the proposed Sethu Samuthiram Project. Despite the ban order, the District Collector has proceeded to grant enter upon permission to the Fisheries Department for S.No.32/3 on 03.06.2013 and for S.No.24/3 on 10.10.2013. Hence, it is clear that the ban order is not strictly enforced as on today. It is also to be noted that the said ban order is said to be enforced for the past 45 years. However, the said project has not taken off. Therefore, the said ban order cannot be said to be an impediment for granting an order of assignment in favour of the writ petitioners, who had paid the cost for the assignment of land prior to the said ban.

21. As per the Revenue Standing Orders, the Government is always at liberty to resume the lands as and when it is required for public purpose. Therefore, whenever, the Sethu Samuthiram Project takes off, the petitioners will not have any vested right to oppose the resumption of the said lands and the Government as a matter of right can resume the said lands.

22. The third respondent who claims to be the Headman of the Village had objected to the assignment in favour of the writ petitioners on the ground that, a portion of the said survey number is a road, which has been laid in the year 1980. Street lights have also been provided in the said road. According to the petitioner, that is the only access road for the entire Villagers to reach the Rameswaram Highway. He apprehends that grant of any assignment order would disturb the right of the general public to use the said public road. This Court clarifies that any order of assignment cannot include a public road.

23. W.P(MD)Nos.14302 and 14303 of 2013 have been filed challenging an order passed by the District Collector on 03.06.2013, granting enter upon permission to the Fisheries Department to put up a Fish Processing Park in S.No.32/3. This order has been recalled by the District Collector by the subsequent order, dated 10.10.2013. By an order, dated 10.10.2013, enter upon permission has been granted to the Fisheries Department to a different survey number, namely, S.No.24/3. Hence, nothing survives to be adjudicated in W.P(MD) Nos.14302 and 14303 of 2013, in view of the subsequent order of the District Collector, dated 10.10.2013. Therefore, W.P(MD)Nos.14302 and 14303 of 2013 stand closed.



24. The orders impugned in W.P(MD)Nos.8883 and 8884 of 2013 are set aside. The official respondents are directed to issue assignment order in favour of the writ petitioners excluding the public road. Hence, W.P(MD)Nos.8883 and 8884 of 2013 stand allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

Sd/-

Assistant Registrar()

// True Copy //

/01/2023

Sub Assistant Registrar(CS)

btr

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai-600 009.
- 2.The Special Commissioner,
and Commissioner of Land Administration,
Chepauk,
Chennai-600 005.
- 3.The District Collector of Ramanathapuram,
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Fisheries Department,
Administration Office Building, Teynampet,
Chennai-600 006.
- 6.The Assistant Director of Fisheries,
Fisheries Department,
Ramnad.



dated 06/12/2022)

+2 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate (SR-60320[F] dated
06/12/2022)

+1 CC to M/s.SPL.GP (SR-60712[F] dated 08/12/2022)

W.P(MD)Nos.8883, 8884, 14302 & 14303 of 2013
06.12.2022

tp(CO)
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