

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of pronouncing the Judgment
13.06.2022	14.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.15937 of 2020

S.Ayyanan

: Petitioner

Vs.

1.The District Collector,
Collectorate,
Madurai.

2.The Revenue Divisional Officer,
Melur Region,
Y.Othakadai,
Madurai District.

3.The Tahsildar,
Melur Taluk,
Melur, Madurai District.

4.The Tamilnadu Bhoodan Yagna Board,
Represented by its Chairman,
Ezhilagam,
Chepauk, Chennai - 5.

5.M.Gopalakrishnan

6.M.Karmegam

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondent Nos.1 to 4 to recover the Bhoodan properties comprised in Survey No.16/3, situated in Sambiranipatti village, Melur Taluk, Madurai District, with an extent of 4.18 acres from the respondent Nos.5 & 6 and hand over the same to landless poor within a time as stipulated by this Court based on the petitioner's representation 17.02.2020.

For Petitioner

: Mr.P.Gunasekaran

For Respondents 1 to 3

: Mr.A.K.Manickam

Additional Government Pleader

For Respondents 5 & 6

: Mr.Muthuthiyagarajan

For Respondent No.4

: No appearance



O R D E R

[Order of the Court was made by **S.ANANTHI, J.**]

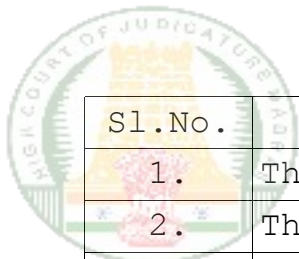
This writ petition has been filed seeking direction to the respondent Nos.1 to 4 to recover the Bhoodan properties comprised in Survey No.16/3, situated in Sambiranipatti Village, Melur Taluk, Madurai District, with an extent of 4.18 acres from the respondent Nos.5 & 6 and hand over the same to landless poor, within a time as stipulated by this Court based on the petitioner's representation 17.02.2020.

2. Heard Mr.P.Gunasekaran, learned counsel appearing for the petitioner and Mr.A.K.Manickam, learned Additional Government Pleader for Respondent Nos.1 to 3 and Mr.Muthuthiyagarajan, learned counsel appearing for Respondent Nos.5 & 6.

3. The writ petitioner has stated in the petition that the properties in Survey No.16/3 with an extent of 4 acres and 18 cents situated in Sambiranpatti Village, Madurai District, originally, belonged to Bhoodan Board and the same was gifted to landless poor. Thereafter, the Respondent Nos.5 & 6 have encroached into the said land and have put up structures. The 5th Respondent is not a landless poor. In fact, he contested the Parliamentary Election as an Independent Candidate and in his nomination paper he has declared that he has assets worth Rs.2 Crores. In this connection, the writ petitioner made a representation on 17.02.2020 requesting the official respondents to recover the Bhoodan properties from the respondent Nos.5 & 6 and hand over the same to landless poor. Since there was no action, the petitioner has come forward with the present writ petition.

4. In support of his contention, the learned counsel appearing for the petitioner has filed revenue records. As per the copy of 'A' register and Adangal S.No.16/3 is in the name of Tamil Nadu Boomidhan Board. The petitioner has also filed a copy of nomination filed by the 5th respondent in which the petitioner has disclosed the properties belonged to him worth about Rs.2 Crores.

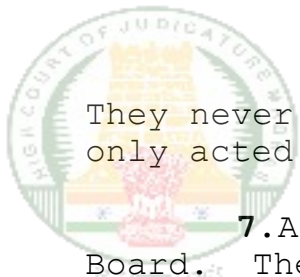
5. The 3rd respondent has filed counter affidavit and has stated that Survey No.16/3 measuring 1.69.0 Hectares of Dry lands of Kidaripatty Village, Melur Taluk, Madurai District stands registered in the name of Tamil Nadu Bhoomidan Board, vide Patta No.809. The Village Administrative Officer, Kidaripatty village, Melur Taluk has reported on 27.07.2020, the above Bhoomidan lands measuring 4.18 acre in Survey No.16/3 of Kidaripatty Village, Melur Taluk were assigned to the following individuals as per the details given below vide Bhoomidan Register No.158/65:-



Sl.No.	Name of the assignee	Extent assigned in Acre
1.	Thiru Chinnamuthu Rowther	1.00
2.	Thiru Perumal Konar	1.00
3.	Thiru Meenakshi Konar	1.00
4.	Thiru Ayyanar Konar	1.18
	Total	4.18

It is submitted that all the assignees noted above are not alive at present. It is submitted that 1.Gopalakrishnan and 2.Karmegam have taken possession of the land illegally. They paid land revenue for the entire extent for Fasli 1428 and they have violated the rules and regulations of the Bhoomidan Board. As per Rule 15 of Tamilnadu Bhoomidan Yagna Rules 1959, the above said properties are inalienable in nature and in case of violations of the conditions would result in resumption. The District Revenue Officer, Madurai in his RC.No.5022/2021-G4 dated 16.06.2021 has addressed the Director of Land Reforms, Chempauk, Chennai for deleting the name of 1.Thiru Chinnamuthu Rowther 2.Thiru Perumal Konar 3.Meenakshi Konar and 4.Thiru.Ayyanar Konar from the Bhoomidhan Board Register, under rule 15(2)(i) of Tamilnadu Bhoomidhan Yagna Rules 1959, and to assign the land to landless poor persons under rule 15(2)(i) of Tamilnadu Bhoomidan Yagna Rules, 1959. Orders from the Director of Land Reforms, Chennai is awaited. On receipt of orders further action will be taken".

6.The Respondent Nos.5 & 6 have filed counter affidavit and stated that out of 4 acres and 18 cents of land mentioned in the writ petition does not belong to the 5th and 6th respondents family alone. Only 3 acres and 15 cents of lands were in the actual possession and enjoyment of the family of the 5th and 6th respondent. The above said 3 acres 15 cents which are in the joint possession and enjoyment of the family of Meenatchi Kone which is consists of his wife Pandiammal elder brother Karmegam and the wife of said Karmegam, Alagammal and also their sons Barathram and Krishna Kone and the 5th respondent. After the demise of Meenatchi Kone on 14.11.2016, the entire family members are in joint possession and enjoyment of the properties out of 3 acres and 15 cents, there were Mango trees planted by the Meenatchi Kone and his wife Pandiammal which were planted 60 years before. The said 3 acres 15 cents were originally in the occupation, possession and enjoyment of my father Meenatchi Kone even before 1960 only on 13.03.1963 the Thasildar, Melur had 5th respondent given a statement the land comprised in Survey No.16/3 was given to the Bhoomidhan Board which was originally given by the Valliammal Achi to the Thasildar Melur on 13.03.1963 copy of the registered document by Thasildar Melur is 158/165. The Rule 15 of Tamil Nadu Bhoothan Yagna Rules 1959 prohibits the sale or otherwise disposal of the land granted. They never sold the land or disposed it otherwise and also they did not lease the land for rent. They have paid license fee for the land.



They never violated any of the conditions enumerated in Rule 15, but only acted as per the conditions laid down in Rule 15.

7. Admittedly, Survey No.16/3 is in the name of Boomidhan Board. The Respondent Nos.5 & 6's father was allotted only one acre under the scheme. Now, he is not alive. Now, the entire Survey No.16/3 are under the possession of the Respondent Nos.5 & 6. To cancel the assignment granted in 16/3, proceedings are pending with Director of Land Reforms, Chepauk as per the counter affidavit of the 3rd respondent.

8. Now, the respondent Nos.5 & 6 have no title over the Survey No.16/3. They have no documents to show that they are in legal possession?. Further, the 5th Respondent is having properties worth about Rs.2 Crores. So, he is not eligible to hold the land under Boomidhan scheme as it was granted to the father of them.

9. Since it is clear that the Respondent Nos.5 & 6 have encroached into the Bhoodhan lands, the Respondent Nos.1 to 4 are directed to remove the encroachment made by the Respondent Nos.5 & 6, within a period of three months, from the date of receipt of copy of the order, in accordance with law.

10. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Collectorate,
Madurai.

2. The Revenue Divisional Officer,
Melur Region,
Y.Othakadai,
Madurai District.

3. The Tahsildar,
Melur Taluk,
Melur, Madurai District.



+1 CC to M/s.SPL.GP (SR-25883[F] dated 15/06/2022)

+1 CC to M/s.C. MUTHU THIAGARAJAN, Advocate (SR-25967[F] dated 15/06/2022)

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ORDER MADE IN
W.P. [MD] No.15937 of 2020
14.06.2022

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sj (CO)
TR(21.06.2022) 5P 6C