



W.P.(MD)No.23474 of 2018 and batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.23474 and 23475 of 2018

and

W.P.(MD)Nos.6123, 16542 and 16547 of 2019

and

W.P.(MD)Nos.32 and 46 of 2021

and

W.M.P.(MD)Nos.21287, 21288, 21289, 21290, 21291 and 21292 of 2018

and

**W.M.P.(MD)Nos.4878, 4879, 4880, 7524, 10822, 13191,
13192, 13196 and 13198 of 2019**

and

W.M.P.(MD)Nos.24, 26, 38, 39, 8425 and 8427 of 2021

in W.P.(MD)No.23474 of 2018:-

- 1.Sivakumar
- 2.Chellammal
- 3.Jothiammal
- 4.Ravikumar
- 5.Selvakumar

... Petitioners

Vs.

- 1.The District Collector,
Office of the District Collector,
Dindigul.



W.P(MD)No.23474 of 2018 and batch

2.The District Revenue Officer,
Office of the District Revenue Officer, Dindigul.

3.The Revenue Divisional Officer Cum
Assistant Commissioner (Land Reforms),
Office of the Revenue Divisional Officer,
Palani, Dindigul District.

4.The Tahsildar, Office of the Taluk Office,
Palani, Dindigul District.

G.D.Narendra (Deceased)

5.Pushpawathie W/o.Late G.D.Narendra
*(R5 is substituted vide order dated
06.04.2022 in W.M.P.(MD)No.3805 of 2021
in W.P.(MD)No.23474 of 2018 by AQJ)*

6.Balasubramanian

... 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 pertaining to the proceedings issued by the 4th respondent in respect of lands comprised in S.No.318/1J1B situated at Periyampatti Village, Palani Taluk, Dindigul District vide Patta No.1965 and quash the same and consequently direct the 4th respondent herein to issue patta in favour of the petitioners in respect of the property comprised in S.No.318/1J5, 1J10, 1J7, 1J9, 1J2 situated at Periyampatti Village, Palani Taluk, Dindigul District.



W.P(MD)No.23474 of 2018 and batch

in WP(MD)Nos.23474 & 23475 of 2018

& WP(MD)No.6123 of 2019 : -

For Petitioners : Mr.M.Sricharan Rangarajan
for Mr.C.Jeganathan

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R1 to R4

Mr.Ajmalkhan, Senior Counsel,
For Mr.M.O.Theven Kumar for R5

Mr.A.Kesavan for R6

in WP(MD)No.16542 of 2019: -

For Petitioners : Mr.M.Sricharan Rangarajan
for Mr.C.Jeganathan

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R1 to R4

Mr.M.Thirunavukkarasu for R5

Mr.Ajmalkhan, Senior Counsel,
For Mr.M.O.Theven Kumar for R6

Mr.S.Sarvagan Prabhu for R7

in WP(MD)No.16547 of 2019: -

For Petitioners : Mr.M.Sricharan Rangarajan
for Mr.C.Jeganathan

For Respondents : Mr.M.Prakash,
Additional Government Pleader for R1 to R4



W.P(MD)No.23474 of 2018 and batch

in WP(MD)No.32 of 2021: -

WEB COPY

For Petitioners : Mr.M.Sricharan Rangarajan
for Mr.S.Ramsundarvijayraj

For Respondents : Mr.M.Prakash,
Additional Government Pleader for R1 to R4

Mr.Ajmalkhan, Senior Counsel,
for Mr.M.O.Theven Kumar for R5 & R6

No appearance for R7

Mr.S.Sarvagan Prabhu for R8

Mr.N.R.Ilango, Senior Counsel
for Mr.A.Muralikumar for R9

Mr.D.Venkatesh for R10

in WP(MD)No.46 of 2021: -

For Petitioners : Mr.M.Sricharan Rangarajan
for Mr.S.Ramsundarvijayraj

For Respondents : Mr.M.Prakash,
Additional Government Pleader for R1 to R4
No appearance for R5 & R6

Mr. Mr.Ajmalkhan, Senior Counsel
for M.O.Theven Kumar for R7

Mr.S.Sarvagan Prabhu for R8 & R9

Mr.N.R.Ilango, Senior Counsel
for Mr.A.Muralikumar for R9

Mr.D.Venkatesh for R10



W.P(MD)No.23474 of 2018 and batch

COMMON ORDER

WEB COPY

Lands that originally belonged to Neikaranpatti Zamin constitute the subject matter of these writ petitions. Proceedings under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 were initiated. The surplus lands eventually came to vest with the Government. Out of the surplus lands, assignments were made in favour of landless poor. The petitioners are such assignees. The petitioners claim that possession of the assigned lands were handed over and that they were also issued with pattas. They claim to be cultivating the lands in question. Their grievance is that the assignments were cancelled behind their backs and without notice. Pattas were also issued in favour of G.D.Narendra, who belonged to Neikaranpatti Zamin family. The petitioners question not only the orders of cancellation but also the pattas issued in favour of G.D.Narendra. The respondents oppose grant of any relief to the petitioners. G.D.Narendra is no more and his wife has come on record in his place. In one of the writ petitions, a purchaser of property from G.D.Narendra figures as one of the respondents. Counter affidavits have been filed controverting the averments in the writ petitions.

2.The learned counsel for the writ petitioners reiterated all the contentions set out in the affidavits filed in support of the writ petitions and



W.P(MD)No.23474 of 2018 and batch

submitted that the impugned orders of cancellation as well as pattas issued in favour of G.D.Narendra will have to be set aside on the sole ground of violation of principles of natural justice.

3.Per contra, the learned senior counsel for the legal heir of G.D.Narendra as well as the learned senior counsel for the subsequent purchaser vehemently contended that the very filing of these writ petitions is an abuse of process of law. The core argument of the learned senior counsel is that the writ petitioners have approached this Court with unclean hands and that they have to be not-suited at the threshold. According to them, the documents produced by the petitioners as if they are in possession of the assigned lands are rank forgeries. It is also stated that these writ petitions have been filed more to extract ransom amount from the family of G.D.Narendra and from the subsequent purchasers. My attention is drawn to the filing of W.P.(MD)Nos. 17556 and 20087 of 2017 and their subsequent withdrawal. It is also asserted by the respondents that only after issuance of notice to the assignees, the assignment orders were cancelled. It is further argued that as per the statutory scheme, the lands were divided into two ie., surplus lands and retention lands and that pattas were issued only in respect of the retention lands. It is further argued that since the cancellation orders have been questioned after lapse of



W.P.(MD)No.23474 of 2018 and batch

several years, the petitioners are also guilty of laches. Therefore, no case for interference has been made out.

4.I carefully considered the rival contentions and went through the materials on record. There is no dispute that the extent of land held by Neikaranpatti Zamin was beyond the prescribed ceiling limit. Proceedings were rightly initiated under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. The excess lands were acquired as surplus under Section 18 of the Act. These proceedings date back to the year 1981. Out of surplus lands, assignments were made and there is no dispute that the petitioners are such assignees. The assignments had taken place between 1998 and 2000 and F-pattas had also been granted to many of the petitioners. While so, G.D.Narendra filed W.P.(MD)No.2441 of 2009 seeking consideration of his request for patta. By order dated 22.04.2009, the writ petition was disposed of with the following directions:-

“3.In view of the limited prayer sought by the learned counsel for the petitioner, this writ petition is disposed of by directing the Revenue Divisional Officer, Palani, third respondent herein to consider the petitioner's representation dated 18.02.2009 and pass order on the same, in accordance with law, and after affording reasonable opportunity to all the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.”



W.P(MD)No.23474 of 2018 and batch

5. Thereafter, the District Revenue Officer entertained the revision and by order dated 02.07.2012 directed that patta will be issued in favour of G.D.Narendra in S.Nos.423/7N1, 423/1 and 423/14 to an extent of 17.75.5 hectares (43.8 acres). Only thereafter, the impugned orders dated 30.04.2013 cancelling the assignments were passed.

6. An assignment order can definitely be cancelled, if the conditions of assignment have been violated. As per Rule 9(2) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, no such cancellation shall be ordered without giving the assignee an opportunity to make his representation. While the petitioners asserted that they were not served with any show cause notices, the respondents would assert that notices were in fact served on the petitioners. In the typed set of papers filed by the official respondents, copies of the notices have been enclosed along with endorsements in the case of a few persons. Rule 8 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962, prescribes the manner of service of notice or order under the Act or the Rules in the case of individual person in the following terms:-

“(d) in the case of an individual person, be served-

(i) by delivering or tendering the notice or order to the person concerned or his Counsel or authorized agent; or



W.P(MD)No.23474 of 2018 and batch

30.04.2013. It states that in Survey No.423 in Periyammapatti Village, 82.22 acres were declared as surplus and that it was assigned in favour of as many as 49 persons. Most of the assignees were given either 1.15 acres or 2 acres. The order further reads that the assignees who were given possession were found to be not in enjoyment of the assigned lands. There is no reference to issuance of notice. On this sole ground, the assignment orders made on 31.10.1998 and 20.03.2000 were cancelled. The authority ought to have borne in mind that once the lands had been assigned, the assignees acquire valuable property rights. Of course, they have to abide by the terms and conditions of assignment. Subject to such restrictions as may be set out in the assignment orders, the assignees are entitled to invoke Article 300A of the Constitution of India. The Assistant Commissioner (Land Reforms), Madurai has proceeded in the matter as if he is taking back something that was given as charity. The Land Reforms laws are an outcome of social justice movement. When the cancellation order does not read that notices were served and that there was no response from the noticees, it is not open to the respondents to now claim that there was no violation of the principles of natural justice. The case on hand cannot be looked at from a technical angle. The question that has to be raised is whether there was justification in cancelling the assignment orders. It is relevant to note here that while the assignment orders were made in 1998 and



W.P(MD)No.23474 of 2018 and batch

2000, the cancellation order was passed in 2014. Since the cancellation order is subsequent in point of time, vis-a-vis the issuance of patta in favour of G.D.Narendra, I conclude that they were more an empty formality. Having issued patta in favour of G.D.Narendra, the authority was obliged to cancel the assignment proceedings. The dates speak for themselves. Proceedings in favour of G.D.Narendra were issued on 02.07.2012. The show cause notices are dated 07.12.2012. The cancellation orders are in the same format. I therefore hold that the cancellation orders have been arbitrarily passed.

9.The petitioners belong to a very ordinary strata of society. That is why, they were identified for being assigned. They are landless poor. In the case of such persons, I will not invoke the harsh doctrine of laches to non-suit them at the threshold.

10.One aspect of the matter baffles me. Neikaranpatti Zamin was in possession of large extent of land. It appears that G.D.Narendra was allowed to retain 700 acres of land. The official respondents concede that a family comprising of five individuals or less can hold only upto 15 standard acres (1 standard acre = 4 ordinary acres). Therefore, by no stretch of imagination, can G.D.Narendra be permitted to hold 700 acres. The surplus land and retention



W.P(MD)No.23474 of 2018 and batch

land cannot be identified by survey number wise. By adopting such an ingenuous method, in each survey number patta has been issued in favour of the Zamindar. One has to take a wholistic view of the situation. When a specific question was put to the learned senior counsel for the legal heir of G.D.Narendra as well as the learned Special Government Pleader for the official respondents as to how G.D.Narendra was allowed to retain 700 acres of land, I did not get a proper response. When the Writ Court comes across something fundamentally illegal or something which shocks judicial conscience, it cannot casually turn its face away. The authorities must be held accountable. The authority strangely does not find anything amiss in the erstwhile Zamindar family retaining 700 acres. But he has not hesitation to cancel the assignment of 1 acre and 2 acres made in favour of landless poor on the ground that they are not in enjoyment.

11.The orders passed in respect of retention lands appear to be highly suspect. The cancellation orders have been passed without application of mind. There is also a clear violation of the principles of natural justice. The impugned proceedings granting pattas in favour of G.D.Narendra as well as the cancellation orders are set aside and these writ petitions are allowed. The authorities have to necessarily revisit the entire issue and fresh proceedings



W.P(MD)No.23474 of 2018 and batch

shall be issued delineating the details of retention lands. The authorities will bear in mind the mandate of Section 5 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. No costs. Consequently, connected miscellaneous petitions are closed.

23.06.2022

Index : Yes / No
Internet : Yes/ No
ias/skm

To:-

- 1.The District Collector, Dindigul.
- 2.The District Revenue Officer, Dindigul.
- 3.The Revenue Divisional Officer Cum Assistant Commissioner (Land Reforms), Palani, Dindigul District.
- 4.The Tahsildar, Dindigul District.



WEB COPY



W.P(MD)No.23474 of 2018 and batch

G.R.SWAMINATHAN, J.

ias/skm

**W.P(MD)Nos.23474 and 23475 of 2018
and
W.P.(MD)Nos.6123, 16542 and 16547 of 2019
and
W.P.(MD)Nos.32 and 46 of 2021**

23.06.2022