



W.A.No.1546 of 2019

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W.A.No.1546 of 2019

D.KRISHNAKUMAR, J.

AND

P. B.BALAJI, J.

At the instance of the learned counsel for the appellant, this matter is posted today under the caption " for being mentioned ".

2. The learned counsel for the appellants submitted that, at the time of hearing the appeal, by inadvertently, it was brought to the notice of this court that as against the order of the Division Bench in W.P.No.1464 of 2013, dated 22.02.2013, an appeal has been preferred before the Hon'ble Supreme Court in C.A.No.011094 of 2018 and the order of the Division Bench has been upheld. ***But, the above C.A.No.011094/2018 is still pending before the Hon'ble Supreme Court and not yet disposed of.*** To that effect, he has also filed a memo before this Court.

3. The above fact is admitted by both the parties.

4. Inview of the above submission, paragraph No.4 and 6 of the judgment in W.A.No.1546/2019 dated 25.09.2023 shall read as follows.

" 4. The fact remains that the appellants had filed W.P.No.1464 of 2013 before the Division Bench of this Court, challenging the show cause notice dated 22.11.2012, initiating suo moto revision by the Principal



W.A.No.1546 of 2019

WEB COPY

Secretary & Commissioner of Land Administration, Chepauk, Chennai-5, after a lapse of 11 years. The Division Bench of this Court, vide order dated 22.02.2013, has set aside the said order of suo motu revision by allowing the writ petition, against which C.A.No.011094 of 2018 has been filed before the Hon'ble Supreme Court. As far as the impugned order passed in the present writ petition is concerned, the said writ petition came to be filed in the year 2003 for a Mandamus forbearing the respondents from dispossessing the petitioner/appellant from S.No.18/8 measuring 1.84 acres in Asthampatti Village in Salem District. The said writ petition came to be filed by the petitioner under the threat of dispossession. Since the issue has been subsequently dealt with by the Division Bench of this Court, quashing the issuance of show cause notice proposing for initiation of suo motu revision, the prayer for mandamus would not arise. In the light of the order of the Division Bench of this Court, no further adjudication is necessary. The Writ Court, without taking into consideration the said facts, has elaborately considered the issue and passed a detailed order disposing of the writ petition.

5. ...

6. The Writ Appeal stands allowed, subject to the outcome of C.A.No.011094/2018 pending before the Hon'ble Supreme Court. No costs. Consequently, connected miscellaneous petitions are closed.



W.A.No.1546 of 2019

WEB COPY

5. In other respects, the earlier order dated 25.09.2023 passed in W.A.No.1546/2019 shall stand unaltered.

(D.K.K., J.) (P.B.B., J.)

27.09.2023

Note: Registry is directed to issue a fresh order copy, after making necessary corrections.
mst



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W.A.No.1546 of 2019

D.KRISHNAKUMAR, J.
and
P.B.BALAJI, J.
mst

W.A.No.1546/2019

27.09.2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 28.08.2023



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W.A.No.1546 of 2019

DELIVERED ON: 25.09.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.1546 of 2019
& CMP.Nos.10610 and 18743 of 2023

1.Smt.Rajathi

2.T.Govindasamy

.. Appellants

Vs.

1.The District Collector,
Salem District, Salem.

2.The Assistant Commissioner,
Zone II, Salem Corporation Asthampatti,
Salem.

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 11.12.2018 made in W.P.No.37747 of 2003.

For Appellants : Mr.P.Jagadeesan

For Respondents : Mr.U.M.Ravichandran,
Special Government Pleader for R1

Mrs.N.Devi, Standing Counsel for R2

JUDGMENT

D.KRISHNAKUMAR, J.

5 of 12



W.A.No.1546 of 2019

WEB COPY

The writ petitioner in W.P.No.37747 of 2003 is the first appellant herein and aggrieved by the disposal of the writ petition which was filed for a Mandamus, forbearing the respondents from in any manner dispossessing the petitioner from the land in Patta 275 Survey No.18/8, measuring 1.84 acres, Asthampatti Village in Salem District, has filed the instant writ appeal.

2. The brief facts of the case are as follows:

2.1. The land measuring 1.84 acres in S.No.18/3 (which according to the petitioner was subdivided as S.No.18/8), Asthampatti Village, Salem Taluk was in possession of first appellant family for more than 70 years. The first petitioner's father-in-law was cultivating the said lands. Considering the long possession and active cultivation of the land for decades, the Assistant Settlement Officer, Dharapuram, vide proceedings in K.Dis.2866/2000 dated 27.03.2001 granted Ryotwari Patta to the first appellant under the provisions of Tamil Nadu Estate (Abolition and Conversion of Ryotwari) Act, 1948.

2.2. When the second respondent and his subordinates attempted to



W.A.No.1546 of 2019

dispossess the first appellant stating that she is an encroacher, she filed W.P.No.37747 of 2003 praying for a Mandamus to forbear the respondents from in any manner dispossessing the petitioner from the land in Patta No.275 in Survey No.18/3, measuring 1.84 acres Hasthampatti Village in Salem District otherwise in accordance with law.

2.3. The first appellant executed a registered gift settlement deed dated 26.09.2008 registered as Doc.No.3744 of 2008 in favour of the second appellant, her younger brother and settled the land in his favour. The first respondent filed a counter in W.P.No.37747 of 2003 admitting the fact that the Assistant Settlement Officer, Dharapuram has granted patta for the land measuring 1.84 acres on 27.03.2001. But it was contended that the land was registered as "Kollankuttai Eri Poromboke" in village accounts and the land is required for communal purpose and proposals were sent to the Government for cancellation of the order of the Assistant Settlement Officer.

2.4. During the pendency of the writ petition, the Principal Secretary &



W.A.No.1546 of 2019

Commissioner of Land Administration issued a Show Cause Notice dated 22.11.2012 purporting to conduct Suo Motu Revision against the order passed by the Assistant Settlement Officer, Dharapuram.

2.5. Challenging the same, the appellants filed W.P.No.1464 of 2013 praying for issuance of a Writ of Prohibition, prohibiting and forbearing the first respondent from conducting suo motu revision proceedings against the order of the Assistant Settlement Officer, Dharapuram. The Division Bench of this Court allowed the writ petition, vide order dated 22.02.2013 and set aside the order of the first respondent dated 22.11.2012 and held that the Principal Secretary & Commissioner of Land Administration cannot have any right to entertain suo motu revision and that too after lapse of nearly 11 years, since ryotwari patta has been granted in the year 2001.

2.6. Aggrieved by the same, the respondents therein filed SLP (Civil) No.1248 of 2015, which was numbered and converted as C.A.No.011094 of 2018 and when the said appeal is pending before the Hon'ble Supreme Court, the



W.A.No.1546 of 2019

instant writ appeal has been filed.

3. Heard the learned counsel for the parties and perused the materials.

4. The fact remains that the appellants had filed W.P.No.1464 of 2013 before the Division Bench of this Court, challenging the show cause notice dated 22.11.2012, initiating suo moto revision by the Principal Secretary & Commissioner of Land Administration, Chepauk, Chennai-5, after a lapse of 11 years. The Division Bench of this Court, vide order dated 22.02.2013, has set aside the said order of suo motu revision by allowing the writ petition, against which CA.No.011094 of 2018 has been filed before the Hon'ble Supreme Court and the order of the Division Bench has been upheld. As far as the impugned order passed in the present writ petition is concerned, the said writ petition came to be filed in the year 2003 for a Mandamus forbearing the respondents from dispossessing the petitioner/appellant from S.No.18/8 measuring 1.84 acres in Ashtampatti Village in Salem District. The said writ petition came to be filed by the petitioner under the threat of dispossession. Since the issue has been



W.A.No.1546 of 2019

WEB COPY

subsequently dealt with by the Division Bench of this Court quashing the issuance of show cause notice proposing for initiation of suo motu revision, which was confirmed by the Hon'ble Apex Court, the prayer for mandamus would not arise. In the light of the order of the Division Bench of this Court, as affirmed by the Hon'ble Apex Court, the assignment of patta granted in respect of S.No.18/3 has reached finality and therefore, no further adjudication is necessary. The Writ Court, without taking into consideration the said facts, has elaborately considered the issue and passed a detailed order disposing of the writ petitions.

5. In the light of the above, the order of the Writ Court dated 11.12.2018 in W.P.No.37747 of 2003 is set aside. It is made clear that the respondents cannot have any right to interfere with the possession of the appellants in respect of the lands admeasuring 1.84 acres in S.No.18/3, Hasthampatti Village, Salem District, which is covered under the final order dated 22.02.2013 passed in W.P.No.1464 of 2013.

6. The Writ Appeal stands allowed accordingly. No costs. Consequently,



W.A.No.1546 of 2019

WEB COPY

connected miscellaneous petitions are closed.

[D.K.K., J.] [P.B.B., J.]
25.09.2023

Index:yes/no

Internet:yes

Jvm

To

- 1.The District Collector,
Salem District, Salem.
- 2.The Assistant Commissioner,
Zone II, Salem Corporation Asthampatti,
Salem.



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W.A.No.1546 of 2019

**D.KRISHNAKUMAR, J.,
&
P.B.BALAJI, J.**

Jvm

**Judgment in
W.A.No.1546 of 2019**

25.09.2023