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W.A.Nos.1133 & 1134 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 20.07.2023

DELIVERED ON: 30.08.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

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

W.A.Nos.1133 and 1134 of 2016
and CMP.Nos.14548 to 14550 of 2016

The District Forest Officer,
Theni.

.. Appellant in both W.As.
Vs.

- 1.Dr.K.Bhoja Rajan
- 2.K.Sundaramoorthy
- 3.K.Subramaniam
- 4.V.Andavar
- 5.S.Soundaiya
- 6.S.Valavan
- 7.Pappammal
- 8.Ezhil Ravindran
- 9.N.Kannan
- 10.N.Murugan
- 11.V.Puvaneswari
- 12.Thanalakshmi
- 13.V.Illavaluthi
- 14.Thenmozhi
- 15.R.Vidhya
- 16.R.Malarvizhi
- 17.V.Sarguna



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18.V.P.Raj

19.B.J.Chitra

20.V.Sathish Raj

.. Respondents 1 to 20 in
W.A.No.1133/2016

1.K.Sundaramoorthy

2.K.Subramanian

3.The Settlement Officer,
Thanjavur.

4.Tahsildar,
Andipatti.

5.V.Andavar

6.V.Elamvazhuthi

7.V.Annamayil

8.Smt.V.Pappathi

9.N.Kannan

10.N.Murugan

11.V.Sarguna

12.V.P.Raj

13.J.Chitra

14.V.Sathish Raj

15.Dr.K.Bhoja Rajan

.. Respondents 1 to 15
in W.A.No.1134 of 2016

The Special Commissioner and
Commissioner of Land Administration,
Chennai-5.

.. Respondent No.21
in W.A.No.1133/2016
Respondent No.16
in W.A.No.1134/2016



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Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the common order dated 17.12.2015 in W.P.Nos.39957 of 2005 and 3522 of 2009

For Appellant
in both W.As.

: Mr.R.Shunmugasundaram
Advocate General,
assisted by
Mr.KMD.Muhilan,
Mr.V.Manoharan,
Additional Government Pleader &
Ms.A.G.Shakeena &
Ms.Sona Sathishkumar

For Respondents
in W.A.No.1133/2016

: Mr.Durai Gunasekaran
for R13 & R14
Mr.S.Vijayakumar for R4 & R9

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: Mr.Durai Gunasekaran
for R5 and R6

COMMON JUDGMENT

D.KRISHNAKUMAR, J.

The second respondent in W.P.No.39957 of 2005 is the appellant in both the writ appeals, challenging the common order dated 17.12.2015 made in W.P.Nos.39957 of 2005 and 3522 of 2009.

2. Facts leading to the filing of the writ appeals, briefly narrated are



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as follows:

2.1. W.P.No.39957 of 2005 was filed challenging the order of the Special Commissioner and Commissioner of Land Administration, Chennai [in short "SCCLA"] dated 22.03.2022, in and by which the claim of the writ petitioners to issue ryotwari patta came to be rejected and with a prayer to quash the same and direct the Survey and Settlement Authorities to issue ryotwari patta to the petitioners and to the legal heirs of Kamatchi Chettiar and Kambal alias Veeriah Chettiar in respect of the land covered in both surveyed and unsurveyed Plot No.36, Megamalai Village, Andipatty Taluk, Theni District. W.P.No.3522 of 2009 was filed challenging the order of the SCCLA dated 14.09.2007 and also for the similar relief.

2.2. The present subject matter of dispute with regard to S.No.280, Megamalai Village, which is classified as reserve forests and presently declared as Srivilliputhur Megamalai Tiger Reserve (SMTR).

2.3. The Government vide G.O.Ms.No.3157, Revenue Department dated 09.12.1950, Megamalai Village was notified as per the provisions



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of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, [hereinafter referred as "**1948 Act**"], (Tamil Nadu Act XXVI of 1948]. In terms of Section 1948 Act, every village stood transferred and vested in favour of the Government only on 02.03.1956, on account of various litigations pertaining to the takeover of the aforesaid village by the Government.

Proceedings under the Tamil Nadu Forest Act, 1882:

2.4. The Government vide G.O.Ms.No.1416, Revenue Department dated 02.06.1951, an extent of about 56,000 acres in S.No.280 was transferred by the Department of Revenue in favour of the Department of Forests and thereafter, the said land was classified as "Forest Poromboke". **According to the appellant, S.No.280 was classified as Reserve Land, vide G.O.Ms.No.2799, Food and Agriculture dated 16.09.1957, by virtue of the powers conferred under Section 26 of the Tamil Nadu Forest Act, 1882 read with "General Rules for the Management of Reserved and Unreserved Lands (I.E.) Rules under Section 26 of the Tamil Nadu Forest Act, 1882" was published in the Tamil Nadu Gazette.**



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2.5. The Government, vide G.O.Ms.No.141, Forests and Fisheries Department dated 28.02.1978 declared its proposal to constitute S.No.280 as Reserve Forests and appointed the Tahsildar (Forest Settlement), Usilampatti to be the Forest Settlement Officer in terms of Section 4(c) of the Tamil Nadu Forest Act. Pursuant to the said G.O., proclamation under Section 6 of the Tamil Nadu Forest Act was published in the Madurai District Gazette in Separately, 1978.

2.6. Pursuant to the proclamation under Section 6 of the Tamil Nadu Forest Act, the procedure prescribed in the Tamil Nadu Forest Act was scrupulously followed by the officials concerned and finally, a declaration under Section 16 of the Tamil Nadu Forest Act was published in the Tamil Nadu Government Gazette on 25.11.2009.

2.7. According to the appellant, during the course of settlement process, no claim whatsoever was filed by any person, including the private respondents herein, claim any right, title or interest with respect to S.No.280 and as such, the proceeding under the Tamil



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Nadu Forest Act was concluded by virtue of a declaration under Section 16. Further, it is imperative to state that none of the proceedings under the Tamil Nadu Forest Act was challenged by the private respondents herein and as such, the same attained finality and the respondents cannot raise any claim over S.No.280, which is classified as Reserved Forest and subsequently declared as Tiger Reserve, vide G.O.Ms.No.14, Environment and Forest (FR-5) dated 08.02.2021.

Proceedings under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948:.

2.8. Vide G.O.Ms.No.3157, Revenue Department dated 09.12.1950, the land in Megamalai Village (originally Narasingapuram Village) was taken over by the Government under Section 3(b) of the 1948 Act, however, actual possession of the land stood vested with the Government only on 02.03.1956 in view of the various litigations concerning the taking over of the said land.

2.9. One Kambal alias Veeriah Chettiar, initially made an application under the provisions of the 1948 Act, seeking Ryotwari Patta



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for S.Nos.263 and 268. Subsequently, the said Veeriah Chettair made another application seeking Ryotwari Patta with respect to S.Nos.264 to 267 and 269 to 271. The above two applications seeking Ryotwari Patta fixed by the said Veeriah Chettiar for S.Nos.263 to 271 were considered by the Assistant Settlement Officer, Madurai and the same were rejected, vide order dated 13.02.1963 on the ground that the said lands are not Ryotiware lands.

2.10. On appeal filed with the Settlement Officer, the same were remanded to the Assistant Settlement Officer for fresh hearing and disposal, vide order dated 16.10.1969. The order of the Settlement Officer was challenged before the Director of Survey and Settlement (DOSS), Madras and upon considering the appeal, the order of the Settlement Officer was confirmed and the matter was remanded to the Assistant Settlement Officer for fresh consideration.

2.11. Assistant Settlement Officer has considered the claim afresh and vide order dated 27.09.1973 dismissed the claim petition on the ground that the subject land is classified as Poromboke Land. On appeal



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before the SO and further appeal before the Director of Survey and Settlement, the appeal was dismissed and was remanded to Assistant Settlement Officer for fresh consideration and disposal, vide order dated 24.10.1975.

2.12. Be that as it may, one Mr.K.Nagaraj, son of Kambal @ Veeriah Chettiar, made an application on 20.02.1976 before the Director of Survey and Settlement seeking Ryotwari Patta with respect to the land comprise in S.No.280, which is the subject matter of the present writ appeal, which is presently classified as Reserved Forest. The Director of Survey and Settlement vide order dated 02.07.1976, directed the Assistant Settlement Officer to consider the aforesaid application pertaining to S.No.280 along with the application already pending with respect to S.Nos.263 to 271. After several levels of proceedings, vide order dated 31.03.1995, the Director of Survey and Settlement remanded the subject matter to the Assistant Settlement Officer for fresh consideration and further observed that the subject land appears to be a Ryoti Land.



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2.13. Thereafter, the Assistant Settlement Officer, vide order dated 24.07.1996 granted Ryotwari Patta in favour of Andavar, Elamvaluthi, Annammal and Pappathi, being the legal heirs of K.Nagaraj, son of Kambal @ Veeriah Chettiar with respect to S.No.280 (part) in an extent of 2888.03.0 Hectares. Pursuant thereto, Andipatti Revenue Taluk Tahsildar, vide order dated 25.08.1996 granted the patta in favour of the legal heirs of Kambal @ Veeriah Chettiar, including Mr.K.Kannan and Mr.N.Murugan, sons of K.Nagaraj.

2.14. Aggrieved by the order dated 24.07.1996, the District Forest Officer, Theni (DFO), filed an appeal before the Settlement Officer. Upon hearing the same, the Settlement Officer, vide order dated 30.12.1996, has set aside the order of the Assistant Settlement Officer in view of the fact that the subject land was classified as Reserved Forest. In the further appeal, the Director of Survey and Settlement, vide order dated 15.09.1998 has upheld the order of the Settlement Officer on the ground that the subject land is classified as Forest Land and rejected the claimants application seeking Ryotwari Patta. Upon further appeal, the Commissioner of Land Administration, vide order dated 22.03.2002, has



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upheld the order of the DOSS dated 15.09.1998.

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2.15. The order of the Commissioner of Land Administration was challenged in W.P.No.6149/2003 and vide order dated 11.10.2006, the order of the Commissioner of Land Administration dated 22.03.2002 was set aside and the matter was remanded for fresh consideration upon issuing notice to the parties concerned and giving an opportunity of being heard.

2.16. According to the appellant, while the order dated 22.03.2002 of the Commissioner of Land Administration was already set aside by this Court, vide order dated 11.06.2006 passed in W.,P.No.6149 of 2003, the learned Single Judge, in the present impugned order dated 17.12.2015 passed in w.P.No.39957 of 2005 and W.P.No.3522 of 2009 has once again set aside the order passed by the Commissioner of Land Administration.

2.17. The Commissioner of Land Administration, vide order dated



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14.09.2007, has rejected the claim for Ryotwari Patta, in view of the fact that the subject land is classified as Reserve Land. Aggrieved by the said order, W.P.No.3522 of 2009 was filed by Dr.K.Bojarajan, K.Sundaramoorthy and K.Subramanian, sons of Kamatchi Chettiar. According to the appellant, the writ petitioners had not filed any application before the concerned authority seeking Ryotwari Patta in terms of Act, 1948.

2.18. The Writ Court, vide impugned common order dated 17.12.2015, has set aside the order passed by the Settlement Officer, Thanjavur made in R.P.No.14 of 1996 dated 30.12.1996 and the Special Commissioner and Director of Survey and Settlement, in his proceedings made in R.P.Nos.4 and 5 of 1997 dated 15.09.1998 and the Special Commissioner and Commissioner of Land Administration, in the proceedings in K.RP.No.2/2000 dated 22.03.2002 and the Special Commissioner and Commissioner of Land Administration, Chepauk in R.O.C.No.K.1/8686/2003 dated 14.09.2007 and held that the order passed by the Assistant Settlement Officer, Madurai made in



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S.R.No.11(a) 3/95 dated 24.07.1996, in and by which direction was given to issue Ryotwari joint patta in the name of six legal heirs of Kambal @ Veeriah Chettiar to an extent of 2287.03.00 Hectares is valid.

2.19. Challenging the aforesaid common order passed by the Writ Court, the District Forest Officer, Theni viz., 2nd respondent in W.P.No.39957 of 2005, has filed the instant writ appeals.

3. Mr.S.Shunmugasundaram, learned Advocate General appearing for the appellants has made the following contentions:

(i) The proceedings of the Revenue Authorities would show that the claim for Ryotwari Patta was sought only by Kambal alias Veeriah Chettiar and not by his brother Kamatchi Chettiar and his sons, who are the writ petitioners in W.P.No.3522 of 2009.

(ii) Initially the proceedings under the 1948 Act was initiated in the year 1950, vide G.O.Ms.No.1157, Revenue Department dated 09.12.1950, whereby the subject land in Megamalai Village was taken over by the Government under Section 3(b) of the 1948 Act, pursuant thereto, claim



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petitions were filed by Veeriah Chettiar claiming Ryotwari Patta. However, during the interregnum, the subject land in S.No.280 were handed over by the Revenue Department to the Forest Department on 02.06.1951 and thereafter, proceedings were initiated under the Tamil Nadu Forests Act, 1882 between 02.06.1951 and 25.11.2009. Neither the writ petitioners nor his brother Kambal alias Veeriah Chettiar, who are the claimants for Ryotwari Patta, challenged any of the proceedings initiated under Tamil Nadu Forest Act and as such, the writ petitioners cannot claim any right, title or interest with respect to the subject land classified as Reserve Forest.

(iii) The Writ Court, while allowing the writ petitions, has heavily placed reliance on the order dated 31.03.1995 passed by the Director of Survey and Settlement, whereby the present issue was remanded to the Assistant Settlement Officer for fresh consideration and also the Civil Court judgment and decree dated 16.11.1957 passed in O.S.No.66/1955 passed by the Sub-Court, Dindigul.

(iv) As regards the order dated 31.03.1995 passed by the Director of Survey and Settlement is concerned, the said order was reversed by way of subsequent order dated 15.09.1998 passed by the Director of Survey and Settlement



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and by orders dated 22.03.2002 and 14.09.2007 passed by the Commissioner of Land Administration and as such, the order of the Director of Survey and Settlement dated 31.03.1995, does not hold good.

(v) As regards the Civil Court judgment and Decree dated 16.04.1957 passed in O.S.No.66/1955 on the file of the Sub-Court, Dindigul is concerned, the said Suit was between private parties and none of the Government Officers were made as parties to the said Suit and that apart, decree of possession alone has been granted, only with respect to the Schedule B property in the plaint, which does not include the disputed lands in S.No.280. Even if assumed otherwise, the said decree is not binding on the appellant herein, since the appellant herein is not a party to the said Suit.

(vi) The relief in the Suit was only for declaration of title and possession and the issue was not as to whether the subject land is a Cultivable Land or Forest Land. The issue as to whether the claimants of Ryotwari Patta are "Ryots" in terms of Section 3(15) of the 1948 Act was neither raised nor considered and only a "Ryot" can claim Ryotwari Patta under Section 11 of the 1948 Act and a mere passing of title will not in any manner entitle a person to seek Ryotwari



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Patta.

(vii) The Declaration of Title or Possession in a Suit has nothing to do with the conditions to be satisfied under Section 11 of the 1948 Act and even if title is proved, the same will not entitle a person to seek Ryotwari Patta and as such, no reliance can be placed on the said judgment and decree dated 16.11.1957 in O.S.No.66/1955 in order to decide the entitlement of Ryotwari Patta.

(viii) The Writ Court has placed reliance on the supplemental survey conducted by the Assistant Settlement Officer (ASO) before passing the order dated 24.07.1996, whereby Ryotwari Patta with respect to an extent of 2877.03.0 hectares was granted in favour of the writ petitioner. It is contended that ASO has not been vested with any such power to do such supplemental survey and the same is completely without jurisdiction and in any event, the order of ASO has been set aside by the Settlement Officer, Director of Survey and Settlement and the Commissioner of Land Administration and as such, the order of ASO does not hold good.

(ix) Disciplinary proceedings were also initiated as against the then Tahsildar, Andipatti Taluk for having



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issued patta, vide order dated 25.08.1996 in favour of the legal heirs of Kambal @ Veeriah Chettiar and legal heirs of K.Nagaraj, son of Veeriah Chettiar, whereby Tahsildar was not permitted to retire from service and the said issue is pending before the Madurai Bench of this Court in writ appeal filed as against W.P.(MD) No.3070 of 2020.

(x) The subject land is a dense forest where no human habitation is possible and in fact the said area has been designated as Tiger Reserve vide G.O.Ms.No.14, Environment and Forests, dated 08.02.2021 and further the subject forests happens to be the original and principal source of water for Vaigai river from which water is supplied for drinking and irrigation purposes to various districts such as Theni, Dindigul, Madurai, Ramanathapuram.

The learned Advocate General appearing for the appellants has placed reliance on the following judgments:

(i) Subramani Pillai and another v. The Secretary to State [(1911) 21 MLJ 132]

(ii) T.N.Godawarman Thirumulpad v. Union of India [Writ Appeal (Civil) No.202 of 1995 dated 12.03.1947]



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***(iii) The State of Madras v. Ramalingaswamigal Madam
[(1969) 2 MLJ 281]***

***(iv) State of Bihar v. Radha Krishna Singh & Ors. [AIR
1983 SC 684]***

***(v) T.N.Godavarman Thirumulpad v. Union of India [Writ
Petition (Civil) No.202 of 1995 dated 10.04.2006]***

***(vi) Nature Lovers Movement v. State of Kerala and Others
[Civil Appel No.2116 of 2000 dated 20.03.2009]***

***(vii) Southern Regional Manager, Thiruvaduthurai
Adheenam v. B.Shahjahan and Others [2020 (6) CTC 769]***

***(viii) S.Rangasamy v. The Government of Tamil Nadu, rep.
by its Secretary, Environment Forest Department, Chennai
[W.A.No.981 of 2019 dated 14.06.2022]***

4. The learned counsel appearing for the respondents 1, 9, 10 and 15 in W.A.No.1134 of 2016 / writ petitioners has drawn the attention of this Court to the counter affidavit filed by the 9th respondent taking the



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following stand:

(i) The Ryot land under dispute is self acquired by Mr.Kambal @Veeriah Chettiyar and the petitioner's do not have any right and the legal heirs of Veeriah Chettiyar alone can claim lawful ownership.

(ii) Megamalai is an initially surveyed Hill Village lying within the ambit of Ex. Gandamanayakanur Zamindar, Gandamanyakanur Zamin Estate was notified in G.O.Ms.No.1357, Revenue Department dated 19.12.1950, to be taken over on 03.01.1951 under the provisions of Tamil Nadu Act XXVI of 1948. This Estate came into uninterrupted possession of the Government only from 02.03.1956. During the survey and settlement effected under Act 1948, the old "Narasingapuram" was split up into 3 villages known as Mayiladumparai, Kadamalaikundu and Megamalai. Ryotwari settlement was introduced in Megamalai Village in Falsi 1371.

(iii) After the enactment of Act 1948 by the Government of Tamil Nadu, third parties had encroached their properties lawfully and therefore, their father Mr.Kambal @ Veeriah Chettiar had filed a Civil Suit in O.S.No.66 of 1955 before the Sub-Court, Dindigul for (1)



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Declaration declaring that the plaintiff is entitled to B Schedule properties; (2) for consequential relief of recovery of possession of B Schedule properties and for injunction regarding the unsurveyed extent i.e., C schedule properties, (3) for recovery of past mesne profits of Rs.5,925/- from the defendants with further interest @ 6% p.a.; (4) for future mesne profits from the date of plaint till delivery of possession of B Schedule properties ; and (5) costs.

(iv) The Suit was decreed on 16.11.1957 as prayed for by the plaintiff, against which the defendants have preferred an appeal in A.S.No.76 of 1959 before this Court and the same was dismissed on merits by order dated 01.11.1962.

(v) From the above decree, Mr.Kambal @ Veeriah Chettiar is the owner of the property and his possession was confirmed and mesne profits were ordered and Mr.Kambal @ Veeriah Chettiar was having pre-existing title over the property situated in Plot No.36 (earlier known as Plot No.29) in Megamalai Village and therefore, Mr.Kambal @ Veeriah Chettiar is a ryot and he is entitled for Ryotwari Patta.

(vi) Their forefather Mr.Kambal @ Veeriah Chettiyar instituted a Suit against the encroachers and succeeded it before the Court of Law. From 1963 to till date, they are



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fighting with revenue department and settlement officers but their efforts have ended in futile.

(vii) Mr.K.Nagarajan, father of the 9th respondent along with other family members preferred a revision in RP. No.48/1970 dated 29.11.1971 before the Assistant Settlement Officer Madurai and it was dismissed and ordered to conduct spot inspection by the Settlement Tahsildar. The Assistant Settlement Officer, Madurai after receiving the Inspection Report had negatived the ryotwari patta in S.No.280 via proceedings dated 27.09.1973.

(viii) Against the orders passed by ASO, Madurai, the father of the 9th respondent preferred a revision petition before the Director of Survey and Settlement, Madras via RP.No.9 and the same was dismissed. Against which a revision petition was filed before the Director of Survey and Settlement, Madras under Section 11(a) read with Section 5(2) of the 1948 Act for issuance of Ryotwari Patta with respect to S.No.280 in Megamalai Village and vide order dated 02.07.1976, the Presiding Officer directed the ASO, Madurai to conduct proper enquiry on the claim of the petitioners.

(ix) The Settlement Officers and the Settlement Tahsildar have conducted enquiry, inspection and analysed



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relevant documents with respect to S.Nos.263 to 271 but they failed to do inspect S.No.280, because it involves large extent of land i.e., 56,955.60 acres and inspite of production of Civil Court decrees, the authorities simply negated to appreciate the evidences on record.

(x) The 9th respondent and other family members had preferred a revision petition in R.P.No.8/1991 and vide order dated 31.03.1995, the Director of Survey and Settlement, Chepauk, Madras has remanded back the case to the Assistant Settlement Officer for detail enquiry.

(xi) The Tahsildar, Andipatty conduted enquiry and found that 2877.30 hectares lands alone available in S.No.280, Megamalai village (out of 56,955 Acres) remaining portions are encroached by third parties. The ASO vide order dated 24.07.1996, after taking into consideration all the evidences put forth by them and found merit in the claim of the petitioners and ordered the Andipatty Tahsildar that Ryotwari should be issue to legal heirs of Mr.Kambal @ Veeraiah Chettiar with respect to Survey No.280, to an extent of 2877 hectares.

(xii) Accordingly, Antipatty Tahsildar, vide order dated 25.08.1996. issued Ryotwari Patta in favour of legal heirs of



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Mr.Kambal @ Veeriah Chettiar. According to the respondents, S.No.280 part for an extent of 2877 Hectares were given separate survey numbers i.e., 1425 and 1426 and the patta number allotted is 2211.

(xiii) Aggrieved by the issuance of Ryotwari Patta with respect to S.No.280, the appellant / Forest Department and the Tahsildar Andipatty filed a revision petition before the Settlement Officer, Thanjavur in R.P.No.14/96 and vide order dated 30.12.1996, the order of the ASO was set aside and ryotwari patta had been cancelled.

(xiv) On appeal before the Commissioner of Survey and Settlement in R.P.No.4 &5 of 97 dated 15.09.1998, similar view was taken by observing that S.No.280 is not a ryotwari land and therefore, the revision was dismissed. Aggrieved over the same, the respondent filed a revision before the Special Commissioner of Land Administration, Chennai, who vide order dated 22.03.2022 observed that there is no merit in the revision.

(xv) Aggrieved by the same, the respondent filed W.P.No.6149 of 2003, wherein this Court had set aside the orders mentioned above and directed the respondent department to issue fresh notice and hear the parties and pass



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orders in accordance with law. Thereafter, the Special Commissioner and Commissioner of Land Administration, vide order dated 14.09.2007 once again dismissed the claim of the writ petitioners.

(xvi) During 2005, the writ petitioners filed W.P.No.39957 of 2005 against the order of the Special Commissioner of Land Administration dated 22.03.2002 and during the pendency of the same, the 15th respondent passed an order dated 14.09.2007 against which they have preferred W.A.3522 of 2009.

5. This Court has considered the rival submissions and also perused the materials available on record.

6. The point for consideration in these writ appeals is whether the respondents /writ petitioners can seek ryotwari patta in respect of lands in question which has been notified as Reserved Forest under the Tamil Nadu Forest Act, 1882?

7. The Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 [Tamil Nadu Act No.XXVI of 1963] provides for



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the acquisition of the rights of the landholders in Inam Estates in the State of Tamil Nadu and the introduction of Ryotwari Settlement in such estates.

7.1. As per **Section 2(16) "ryot"** means

(i) in relation to an existing inam estate shall have the same meaning as in Clause (15) of Section 3 of the Estates Land Act; and

(ii) in relation to a new inam estate shall mean a person who holds for the purpose of agriculture ryoti land in such estate on condition of paying to the landholder the rent which is legally due upon it.

7.2. As per **Section 2(17) "ryoti land"** means

(i) in relation to an existing inam estate shall have the same meaning as in Clause (16) of Section 3 of the Estates Land Act; and

(ii) in relation to a new inam estate shall mean cultivable land in such estate other than private land, but does not includes

(a) beds and bunds of tanks and of supply, drainage, surplus or irrigation channels ;

(b) threshing floor, cattle stands, village sites and other lands situated in any new inam estate which are set apart for the common use of the villagers;

(c) lands granted on service - tenure either free of rent or on favourable rates of rent granted before the passing of this Act so long as the service - tenure subsists;

7.3. Section 11 of the Tamil Nadu Estates (Abolition & Conversion



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into Ryotwari) Act, 1948 deals with Grant of Ryotwari Pattas:

"11.Lands in which ryot is entitled to ryotwari pattas.-

Every ryot in an estate shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of-

(a) all ryoti lands which, immediately before the notified date, were properly included or ought to have been properly included in his holding and which are not either 'lanka lands or lands in respect of which a landholder or some other person is entitled to a ryotwari patta under any other provisions of this Act ; and

(b) all lanka land in is occupation immediately before the notified date, such lands having been in his occupation or in that of his predecessors in title continuously from the 1st day of July 1939;

Provided that no person who has been admitted into possession of any land by a landholder on or after the 1st day of July 1945 shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land."

7.4. Section 12 deals with lands in Zamindari Estate in which landholder is entitled to Ryotwari Patta:

"12.Lands in Zamindari estate in which landholder is entitled to ryotwari patta - In the case of a Zimindari estate, the landholder shall with effect on and from the notified date, be entitled to a ryotwari patta in respect of -

(a) all lands (including lanka lands) which, immediately before the notified date (i) belonged to him as private land within the meaning of Section 3, Clause (10)(a) of the Estates Land Act, or (ii) stood recorded as his private land in a record prepared under the provisions of Chapter XI or Chapter XII of the said Act, not having been subsequently converted into ryoti land;



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(b) (i) all lands which were properly included or which ought to have been properly included, in the holding of a ryot and which have been acquired by the landholder, by inheritance or succession under a will, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour, with his own or hired stock, in the ordinary course of husbandry from the date of such acquisition or the 1st day of July 1939, whichever is later and has been in direct and continuous possession of such lands from such later date;

(ii) all lands which were properly included, or which ought to have been properly included, in the holding of a ryot and which have been acquired by the landholder by purchase, exchange or gift, but not including purchase at a sale for arrears of rent, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour, with his own or hired stock in the ordinary course of husbandry from the 1st day of July 1945 and has been in direct and continuous possession of such lands from that date;

(iii) all lands [not being (i) lanka lands, (ii) lands of the description specified in Section 3, clause (16), sub-clauses (a), (b) and (c) of the Estates Land Act, or **(iii) forest lands**] which have been abandoned or relinquished by the ryot, or which have never been in the occupation of a ryot, provided that the landholder has cultivated such lands himself, by his own servants or by hired labour, with his own or hired stock in the ordinary course of husbandry from the 1st day of July 1939, and has been in direct and continuous possession of such land from that date.

Explanation:- Cultivate in this clause includes planting and rearing of topes, gradens and orchards, but does not include the rearing of topes of spontaneous growth."



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8. The contentions of the appellants are three fold:

(i) The subject lands in S.No.280 were handed over by the Revenue Department to the Forest Department on 02.06.1951 and thereafter, several proceedings were initiated till 25.11.2009 under the Forest Act declaring the subject lands as Reserve Forest. Neither the writ petitioners nor his brother Kambal @ Veeriah Chettiar challenged any of the proceedings under the Forest Act.

(ii) The judgment and decree dated 16.04.1957 in O.S.No.66/1955 passed by the Sub-Court, Dindigul does not pertain to S.No.280, which is classified as Reserve Forest and the said Schedule refers only to Plot No.3, which is not in any way connected with S.No.280.

(iii) The declaration of title or possession in a Suit has nothing to do with the conditions to be satisfied under Section 11 of the 1948 Act and even if title is proved, the same will not entitle a person to seek Ryotwari Patta.

9. The first contention of the appellants with regard to initiation of proceedings under the Tamil Nadu Forest Act, 1882, declaring the subject



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lands as Forest Lands is concerned, a perusal of the materials placed before this Court would disclose that vide G.O.Ms.No.1416, Revenue Department dated 02.06.1951, an extent of about 56,000 acres in S.No.280 was transferred from the Revenue Department to the Forest Department and classified as "Forest Department" and it was classified as Reserve Land, vide G.O.Ms.No.2799, Food and Agriculture Department dated 16.09.1957. Thereafter, vide G.O.Ms.No.41, Forests and Fisheries Department dated 28.02.1978, the Government declared its proposal to constitute S.No.280 as Reserved Forests and appointed the Tahsildar Usilampatti to be the Forest Settlement Officer in terms of Section 4(c) of the TN Forest Act and pursuant to the said G.O., Proclamation under Section 6 of the TN Forest Act was published in the Madurai District Gazette in September, 1978. Proclamation under Section 6 of the TN Forest Act and Final Declaration under Section 16 of the Tamil Nadu Forest Act was published in the Tamil Nadu Government Gazette on 25.11.2009, the same is evidenced from Page No.168 of the typed set of documents filed by the appellants.

10. It is pertinent to point out that right from the initiation of



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proposal from under Section 4(c) of the Tamil Nadu Forest Act till the Final Declaration under Section 16 of the said Act, the writ petitioners have not challenged any of the proceedings initiated under the Tamil Nadu Forest Act and they have simply sat under the shelter of the Civil Court decree in O.S.No.66/1955 dated 16.11.1957. Further more, as per Section 12 of the Act, 1948, lands which are declared as follows are excluded from the purview of granting ryotwari patta.

11. The Writ Court, while allowing the writ petitions, has mainly relied on the judgment and decree dated 16.11.1957 passed in O.S.No.66/1955 by the Sub-Court, Dindigul as well as the order of the Director of Survey and Settlement dated 31.03.1995. A bare perusal of the Civil Court decree would disclose that the Civil Court has held that the plaintiff, namely Kambal alias Veerayya Chettiar has been in possession of B-Schedule Properties 12 years prior to the Suit i.e., prior to 1955, whereas B Schedule Properties comprises of Paimash Nos.36, 36a, 36d and 36e and there is no clear mention about declaration of title in respect of S.No.280.



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12. Initially, the sons of Kambal @ Veeriah Chettiar along with others filed revision Petitions under Section 11(a) of Act, 1948 in R.P.Nos.9, 24 to 29 / 1975 before the Director of Survey and Settlement, Madras, against the common order passed by the Settlement Officer, Madurai dated 20.12.1974. It is useful to refer to the findings given by the Director of Survey and Settlement, Madras dated 29.10.1975, as extracted hereunder:

"The land in S.No.280 measuring nearly 56,955 acres is a huge forest. This land was not at all the subject matter in all the earlier proceedings. In fact, this was not included as one of the Suit land in one of my predecessors order in RP.48/70 dated 29.11.1971. It is evidence, that claims were made over the portions of S.No.280 only during a course of enquiry by the Assistant Settlement Officer in his S.R.11(a)/11/PKM/3 and that too, after the spot inspection by Settlement Tahsildar. In as much as the claims and counter claims, in earlier proceedings related only to the suit lands (mentioned in the Schedule), the claims of the parties over portions in S.No.280 cannot be considered in the present revision petitions. The Settlement Officer was therefore, correct on this point. If at all the revision petitioners and the respondents have got valid documentary evidence to prove their claims for the issue of patta under Section 11(a) of the Act in regard to S.No.280, nothing prevented them from making separate claims and the basis of the documents of title, possession and employment.

Much stress was made even before me that the claims of the claimants and counter claimants should be allowed on the basis of Ex.C4, which is an unregistered agreement entered into by the parties after inspection by one Settlement



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Officer, attached to the branch Settlement office, Madurai. The Settlement Officer, in his order sought to be reviewed held that Ex.C4 is one of the grant of patta for merely an extent of 635 acres of forest land without any basis and therefore, there was no need for him to examine the reliability. It was mentioned here that ***Ex.C4 cannot be a conclusive evidence to decide the issue of patta in favour of the parties.....***

Section 11(a) of the Act contemplates that for the consideration of a claim under the Section, the land claim should be ryoti properly included or ought to have been properly included in a holding of a ryot immediately prior to the notified date. Since the suit lands lie in an initially surveyed Hill area, it is necessary to satisfy whether the original assignment made by the landholder hit by the provisions of the Forest Act, 1947 apart from the statutory obligations that are to be proved as required by Section 11(a) of the Act.

I must mention here that the ***Civil Courts have no jurisdiction to decide the tenure of the land. It is only the Settlement forum who has got powers to decide the character of a given piece of land.*** In all the cases on hand, the first issue to be decided is about the correct character of the land as on the notified date and the second issue is to decide as to who is entitled to patta for the suit lands based on documentary and other evidence. In arriving at the decisions of the title of a person and decide the ownership of the land the Settlement Authorities should honour the Civil Courts. Even before me, ***the revision petitioners and the respondents were unable to explain their cases individually with their documentary but simply prayed for the issue of patta on the basis of Ex.C4.*** In the circumstances, I do not find any reason to interfere with the findings of the Settlement Officer in this regard.

Ultimately, the matter was remanded to the Assistant Settlement Officer



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to proceed with the remanded enquiry insofar as it related to the schedule mentioned land according to rules uninfluenced by any observation of the Settlement Officer, his findings of fact or other matters in regard to the ryoti extent.

13. Thereafter after several round of proceedings, the legal heirs of Veeriah Chettiar once again filed R.P.No.8/1991 before the Director of Survey and Settlement, Chepauk, Madras and vide order dated 31.03.1995, the matter was once again remanded to the Assistant Settlement Officer, Madurai for detail enquiry. The Assistant Settlement Officer, vide order dated 24.07.1996 in S.R.11(a)3/95 has passed orders to issue Ryotwari Joint Patta in the name of the six legal heirs of Kambal @ Veeriah Chettiar for an extent of 2877.03.0 hectares in S.No.280 part of Megamalai. Pursuant thereto, the Tahsildar, Andipatti has issued patta in favour of the legal heirs of Kambal @ Veeriah Chettiar in S.Nos.1425 & 1426.

14. The District Forest Officer, Theni and the Tahsildar, Andipatti, aggrieved by the order of the Assistant Settlement Officer, Madurai dated



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24.07.1996, allowing ryotwari patta for an extent of 2877.03.0 Hectares in S.No.280 Part of Megamalai Village, Andipatti Taluk, filed revision petition before the Settlement Officer, Thanjavur in R.P.No.14/1996, who vide order dated 30.12.1996, has observed as under:

"Point No.1: In BP 400/71 dated 31.07.71, the Board observed that the area which have been treated as Forest at the Final Settlement Enquiry without proper enquiry will be taken up for denovo enquiry, where orders have been passed after giving into the merits of the case on the ground that no claim for patta has been established, such cases need not be reopened. It is seen from the Extract of S.F.7 relating to S.No.280 shown as follows:

"The claims of various persons for the issue of ryotwari patta under Section 11(a) and 9(a) have been rejected. *The Karnam says that there are no estate patta lands within the limits of 280 which is 56,955.60 acres as per survey. It is mainly forest area. Hence S.No.280 will be treated as Forest Poromboke, vide Assistant Settlement Officer S.R.11(a) / 92 PKN / 64 dated 26.8.1965*"

This order was not challenged by anybody. Therefore, BP 400/71 dated 31.7.1971 is of no help to the respondents.

Point No.3: In BP Perm 510/66 dated 01.09.1966, the Board (A Former Commissioner of Settlement of estates Thiru S.R.Kaiwar, ICS) held that to determine the classification of tenure of the land is an ex-zamin estate vests in settlement authorities and finally by Commissioner of Settlement Estate (Now Commissioner of Land Administration). *It is on record that the Suit land was treated as Forest Poromboke in 1965 as per Assistant Settlement Officer S.R.11(a) /92 PKM / 64 dated*



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26.8.1965. *This order was not challenged by anybody. Besides no provision in the Act 1948 to reopen the settled matter after a decade. As such this BP 51066 dated 01.09.1966 is of no help to the respondents.*

Point No.4: A persual of the Judgment in O.S.No.66/55 (Ex.A8), which has been filed for a claim other than the suit land i.e., S.No.280 shows that no issue was framed as to whether Kambal alias Veeriah Chettiar, the Predecessor in title owned the entire extend within the four wider boundaries and hence, there was no decision on this point. The character of the land was not the subject matter of the Suit, which was after the advent of Act, 1948. Moreover, ***the High Court Madras had held in its judgment dated 03.01.1995 in CRP.No.2043/1953 that it is the Settlement Officer, in the first instance, who should decide in accordance with the statutory requirements of Act, 1948, whether a person is entitled to ryotwari patta and that a Civil Court has no jurisdiction to entertain a Suit for this purpose directly or indirectly*** as for example, for a declaration that certain lands in which plaintiff is interested are ryoti lands. Therefore, the ***Civil Court judgment in O.S.No.66/55 is of no help to the respondents.***

21.... A careful scrutiny of the documents in Ex.A series shows that Ex.A7 is a Zamin patta issued by the Zamin Administration to Kambal alias Veeriah Chettiar, which contains only 78.50 acres of land in Plot No.36. It can be seen from the paras 13 and 14 above that after disposing of his entire extent of 78.50 acres, he had sold another 150.00 acres (i.e., totally he had disposed an extent of 228.50 acres based on this document in Ex.A series). It is evident that he had already exhausted his right over the documents in Ex.A series (i.e., over and above his lawful right that he had under Ex.A7). ***Moreover, if the land in***



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S.No.280 was actually under the occupation of the respondents or their predecessor in title right from 1938 to 1939 as contended by them, there would have been series of pattas issued by the landholder to the tenant every fasli year. But here no such pattas were produced. In the absence of such pattas right from 1938 onwards for each fasli, it has to be concluded that there was no physical occupation or possession on ground. Therefore, the contention of the respondents that the suit land was never forest cannot be accepted. It is seen from the inspection report of 1968 (S.D.T.) itself shows that the entire area was a thick forest in high altitudes of Megamalai Hills. One could not take immediate possession of these lands. He had no fell the trees, deforests the land prior to bringing it to cultivation.

Even if it is presumed that the suit land was admitted into possession prior to 1939, it will not fall within the meaning of cultivable land. The test, that is laid down by the Supreme Court reported in 1964 I MLJ 42 (Athamanatha Swami Devasthanam v. V.Gopalaswamy) the land should be such it could be brought under cultivation without undue expenditure of money and labour. It can be seen from the above that the land in S.No.280 cannot be brought under cultivation without undue expenditure of money and labour. "

On the above reasoning, the Settlement Officer, Thanjavur has allowed the revision filed by the appellant / DFO, Theni and set aside the orders of the Assistant Settlement Officer, Madurai dated 24.07.1996.

15. The legal heirs of Kambal @ Veeriah Chettiar, aggrieved by the



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order of the Settlement Officer, Thanjavur in R.P.No.14/1996 dated 30.12.1996, filed R.P.Nos.4 and 5 of 1997 before the Director of Survey and Settlement, Chennai, who vide order dated 15.09.1998 has dismissed the revision petitions. Against which the respondents / writ petitioners has filed revision petition before the Special Commissioner of Land Administration in R.P.No.2/2000, who vide order dated 22.03.2002, has observed as under:

"9. Moreover, writ petitions have been filed in the Hon'ble High Court in W.P.Nos.5891 to 5893/ 1992 (Thiru Pulugandi and 5 others v. The Commissioner of Land Administration and Others) against the orders passed by the Settlement Authorities. Though the petitioners are different in these writ petitions, the suit land namely S.No.280 of Megamalai Village and the issues raised are the same as those in the present revision petition.

10. The Hon'ble High Court has gone into the details of the claims made by the petitioners and points put forth by them. The issues considered by the Hon'ble High Court are mainly,

- (1) *the merit of the claims made by the petitioners for grant of patta*
- (2) *the dispute regarding the nature of land and*
- (3) *the power of the settlement authorities in deciding the matter once the Forest Department has issued notice under Section 4 and 5 of the Tamil Nadu Forest Acts.*

11. The 3rd point mentioned above, namely the power of settlement authorities in deciding the matter once the



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Forest Department issued notices under Sections 4 and 5 of the Tamil Nadu Forest Act, is discussed in detail and orders passed by the Hon'ble High Court in their judgment in W.P.Nos.5891 to 5893 of 1992. The relevant portion reads as follows:

*"It is also significant to note that the jurisdiction of all other Courts is barred from entertaining any claim in or over the land notified under Section 4 of the Tamil Nadu Forest Act, 1882 as defined under Section 5 of the Tamil Nadu Forest Act, 1882. Further, as defined under Section 7 of the Tamil Nadu Forest Act, 1882, no patta shall be granted over the land notified under Section 4 of the Tamil Nadu Forest Act without prior sanction of the Government. Therefore, in such circumstances of these cases, it is contended by the respondents that the Forest Settlement Officer is the only competent authority to deal with all the claims and rights in or over the land notified under Section of the Tamil Nadu Forest Act, 1882 and that the **Revenue Settlement Authorities have no locus standi to deal with the claim in or over the land notified by the Government under Section 4 of the Tamil Nadu Forest Act, 1882 after due classification as "Forest" by the settlement authorities and that therefore, the Forest Settlement Officer has rightly rejected the claims and that the order of the Forest Settlement Officer shall hold good and final as the petitioners herein had not produced any valid documents to prove their claims. I see every force in the above contentions raised by the respondents. Therefore, in view of the above, all the contentions raised by the petitioners herein have to be rejected for want of merits.**"*

12. Since the points raised by the revision petitioners have already been decided by the Hon'ble High Court over the same suit land they do not warrant any discussion or decision in this forum and accordingly, the revision petitions are dismissed."



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16. Challenging the order of the Special Commissioner and Commissioner of Land Administration dated 22.03.2002, the respondents filed W.P.No.6149 of 2003 and this Court vide order dated 11.10.2006, has set aside the same and directed the respondent therein to give notice to all the legal heirs of Kambal @ Veeriah Chettiar and also the children of Late K.Nagarajan, who is the deceased son of Veeriah Chettiar and after hearing the both sides, to pass necessary orders. Accordingly, the matter was once again remitted back to the Special Commissioner and Commissioner of Land Administration.

17. The Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai has once again considered the issue afresh and vide order in ROc.k1.8686/2003 dated 14.09.2007 has observed as under:

"16.By Notification dated 3.1.1951, Megamalai Village was taken over by the government under Section 3(b) of Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act and vested with the Government free from all encumbrances. Final Settlement Enquiry was completed and S.No.280 of Megamalai Village was treated as "Forest". The predecessor in title of the petitioner had put his claim for the



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first time for S.No.280 only in the year 1976. If he had any right accrued because of the judgment in O.S.No.66/55, he had ample time to make his claim even from the time of Final Settlement Enquiry in the year 1960. Even considering the claim of the petitioners under the decree of the Civil Suit, it does not fulfill the conditions contemplated u/s.11(a) of all ryoti lands which immediately before the notified date were properly included or ought to have been properly included in his holding. In this case, the village was notified on 03.01.1951 and the Civil Suit was filed only in the year 1955, and no evidence of their holding of suit land was submitted by the revision petitioners or their predecessor in title Thiru.Kambal alias Veeriah Chettiar at any instance before the settlement authorities so far. Therefore there is no force in the claim of petitioner to rely upon the judgment of the Civil Court in O.S.No.66/1955. This point was examined in detail by the Settlement Officer, Thanjavur in his order dated 30.12.1996 and on appeal, the Commissioner and Director of Survey and Settlement has confirmed this order in his order dated 15.09.1998.

17. Moreover, an extent of 2877.03.0 hectrs. (7106.26 acres) in S.No.280 claimed by the petitioners has already been notified under Section 4 of the Tamil Nadu Forest Act, 1882 in G.O.Ms.No.141, Forest & Fisheries Department dated 28.2.1978. The petitioner who stake claim for the vast extent of Forest Land did not challenge the subsequent Notification so far. In the General Notification published in Madurai District Gazette No.71 of September, 1978, opportunities were given u/s.6 of Tamil Nadu Forest Act, 1882 to submit petition explaining their rights to the competent authority within 3 months. However, it appears that no such claim was made by the revision petitioners. Finally revision petitioners have failed to prove their right to get ryotwari patta under Section 11(a) of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, XXVI / 48 as the suit land in S.No.280 was never under their holding



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prior to or after the notified date i.e., 03.01.1951.

18. The Commissioner and Director of Survey and Settlement Officer in his order No.R.P.4 and 5 / 1997 dated 15.09.1998 has opined that it is only forest land and that the land was never a ryoti and further that the petitioners have not produced any corroborative evidence to prove their claim over the suit land and that repeatedly they adhere to the evidence already furnished by them in earlier proceedings.

19. The Settlement Officer, Thanjavur in his order dated 30.12.1996 and the Commissioner and Director of Survey and Settlement in his order dated 15.09.1996 have gone into the merits of the entire proceedings in detail and rightly dismissed the claim of the revision petitions.

20. In these circumstances, I do not see any reason to interfere with the above concurrent orders of the local authorities."

18. The following conclusions are arrived by the Settlement Authorities by the aforesaid proceedings as extracted above:

(i) The Karnam says that there are no estate patta lands within the limits of 280 which is 56,955.60 acres as per survey. It is mainly forest area. Hence S.No.280 will be treated as Forest Poromboke, vide Assistant Settlement Officer S.R.11(a) / 92 PKN / 64 dated 26.8.1965. This order was not challenged by anybody. Therefore, BP 400/71 dated 31.7.1971 is of no help to the respondents/writ petitioners.



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(ii) In BP Perm 510/66 dated 01.09.1966, the Board held that to determine the classification of tenure of the land is an ex-zamin estate vests in settlement authorities and finally by Commissioner of Settlement Estate (Now Commissioner of Land Administration). It is on record that the Suit land was treated as Forest Poromboke in 1965 as per Assistant Settlement Officer S.R.11(a) /92 PKM / 64 dated 26.8.1965. This order was not challenged by the writ petitioners. Besides no provision in the Act 1948 to reopen the settled matter after a decade.

(iii) A perusal of the Judgment in O.S.No.66/55 (Ex.A8), which has been filed for a claim other than the suit land i.e., S.No.280 shows that no issue was framed as to whether Kambal alias Veeriah Chettiar, the Predecessor in title owned the entire extent within the four wider boundaries and hence, there was no decision on this point. The character of the land was not the subject matter of the Suit, which was after the advent of Act, 1948.

(iv) This Court, vide order dated 03.01.1995 in CRP.No.2043/1953 held that it is the Settlement Officer, in the first instance, who should decide in accordance with the statutory requirements of Act, 1948, whether a person is



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entitled to ryotwari patta and that a Civil Court has no jurisdiction to entertain a Suit for this purpose directly or indirectly as for example, for a declaration that certain lands in which plaintiff is interested are ryoti lands. Therefore, the Civil Court judgment in O.S.No.66/55 is of no help to the respondents/writ petitioners.

(v) If the land in S.No.280 was actually under the occupation of the respondents or their predecessor in title right from 1938 to 1939 as contended by the writ petitioners, there would have been series of pattas issued by the landholder to the tenant every fasli year. But here no such pattas were produced. In the absence of such pattas right from 1938 onwards for each fasli, it has to be concluded that there was no physical occupation or possession on ground. Therefore, the contention of the respondents that the suit land was never forest cannot be accepted.

(vi) Jurisdiction of Courts is barred from entertaining any claim in or over the land notified under Section 4 of the Tamil Nadu Forest Act, 1882 as defined under Section 5 of the Tamil Nadu Forest Act, 1882. Further, as defined under Section 7 of the Tamil Nadu Forest Act, 1882, no patta shall be granted over the land notified under Section 4 of the



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Tamil Nadu Forest Act without prior sanction of the Government. The Forest Settlement Officer is the only competent authority to deal with all the claims and rights in or over the land notified by the Government under Section 4 of the Tamil Nadu Forest Act, 1882 and that the Revenue Settlement Authorities have no locus standi to deal with the claim in or over the land notified by the Government under Section 4 of the Tamil Nadu Forest Act, 1882 after due classification as "Forest" by the settlement authorities.

(vii) The Megamalai village was notified on 03.01.1951 and the Civil Suit was filed only in the year 1955, and no evidence of holding of suit land was submitted by the revision petitioners or their predecessor in title Thiru.Kambal alias Veeriah Chettiar at any instance before the settlement authorities so far. Therefore there is no force in the claim of writ petitioners to rely upon the judgment of the Civil Court in O.S.No.66/1955. This point was examined in detail by the Settlement Officer, Thanjavur in his order dated 30.12.1996 and on appeal, the Commissioner and Director of Survey and Settlement has confirmed this order in his order dated 15.09.1998.

(viii) An extent of 2877.03.0 hectrs. (7106.26 acres) in S.No.280 claimed by the respondents / writ petitioners



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have been notified under Section 4 of the Tamil Nadu Forest Act, 1882 in G.O.Ms.No.141, Forest & Fisheries Department dated 28.2.1978. The writ petitioners who claim for the vast extent of Forest Land did not challenge the subsequent Notification so far. In the General Notification published in Madurai District Gazette No.71 of September, 1978, opportunities were given u/s.6 of Tamil Nadu Forest Act, 1882 to submit petition explaining their rights to the competent authority within 3 months. However, it appears that no such claim was made by the writ petitioners. Finally writ petitioners have failed to prove their right to get ryotwari patta under Section 11(a) of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, XXVI / 48 as the suit land in S.No.280 was never under their holding prior to or after the notified date i.e., 03.01.1951.

19. A Division Bench of this Court in the case of ***C.Sankareswaran & anr Vs. The Commissioner, Land Ceiling and Land Reforms & ors. [W.P.(MD)Nos.3536 of 2005 & 943 of 2006 dated 05.12.2006]*** wherein writ Petitions have been filed seeking direction restraining the Revenue officials and the District Forest Officer, Theni from granting patta in respect of the lands situated in Kottagudi Village,



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Bodinayakkanoor Taluk, Theni District. In the said Writ Petition, the

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Hon'ble Division Bench of this Court held as follows :~

"14. The Central Government keeping in mind deforestation, which causes ecological imbalance and leads to environmental deterioration, had brought up the Forest (Conservation) Act, 1980 to check further deforestation. The said Act applies to any forest land irrespective of the fact that it has been declared as reserve forest area. Equally it applies to any unutilised land, which lies in the midst of a forest.

15. In this context, it must be seen that the word "forest" shall generally mean such of those lands which are also in the midst of either the forest or reserve forest, as the case may be, and any restricted meaning would not be in the interest of maintaining ecological balance of the hills. The question as to whether it is utilised for any agricultural purpose or left vacant is not the criteria for determining the issue in question. To our mind, forest means a parcel of land on which trees have been grown. A forest is best defined as an ecosystem or assemblage of ecosystem dominated by trees and other woody vegetations. Moreover, a legal definition is different from an ecological definition. The perspective of the economist differs from that of a geographer. But all definitions stress the importance of trees in the ecosystem. That apart, considering the need to protect the wild animals, the Central Government also had brought the Wild Life (Protection) Act, 1972 to provide for the protection of wild animals, birds, plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country. To give effect to the said Act, protection of wild animals in the Kottagudi hills should be ensured for ecological and environmental security. The Government of Tamil Nadu



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had also enacted the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955 with an object to prevent deforestation and soil erosion and also to preserve the special characteristics of the hill areas as regards landscape, vegetal cover and climate. With the above object, the Act also provides for regulation of the cutting of trees and the cultivation of land in hill areas in the State. Section 3 of the said Act prohibits the cutting of trees in the forest land without previous permission of the committee constituted by the Government under Section 2A of the Act. Similarly, Section 4 prohibits the use of the land for new cultivation.

16. Factually, in the case on hand, major portion of the land in question is covered by thick forest commonly known as Shola forest, and only a small extent of land is left barren. In the event a barren land is put in use for any other purpose including for agricultural purpose, it would result in deforestation, which is bound to occur in the near future. That apart, the area is a source for continuous water flow and such water is the only source of drinking water for the Bodinaickkanur Municipality. The conservancy of forest land, though not included in the reserve forest, should be retained as open forest and in fact the State is obligated to guard against alienation of vacant land within the reach of forest growth in order to maintain the natural forest. Any new inhabitation would certainly affect the natural source of water apart from resulting in ecological imbalances. It would be also not in the interest of habitation of wild animals.

17. From the consistent declaration of law of the Supreme Court, in our opinion, the land in question cannot be either assigned or pattas could be granted to any individual and the said land, which is kept vacant for years and lies in the midst of thick reserve forest, should be kept as a forest only to maintain ecological balance. Any attempt to put the land for different use would certainly endanger the preservation and conservation of



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forest and for the said reason, the petitioners have to succeed in the writ petitions. Accordingly, the writ petitions are allowed forbearing the respondents from granting the pattas in respect of the lands in Survey Nos.1079/1B, 1110/2, 1113/1B, 1185/1B, 1195, 1197, 1186 and in Survey Nos.1079, 1185, 1186, 1195, 1197 in Kottagudi village, Bodinayakkanoor Taluk, Theni District acquired under Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 to any person. No costs."

20. In the case on hand, vide G.O.Ms.No.141, Forest and Fisheries Department dated 28.02.1978, an extent of 2877.03.0 Hectares (7106.26 Acres) in S.No.280 has been notified under Section 4 of the Tamil Nadu Forest Act, 1882 and vide Notification dated 25.11.2009 published in the Tamil Nadu Government Gazette and vide G.O.Ms.No.118, Environment and Forest (FR-14) dated 09.09.2009, the Department of Environment and Forests, in exercise of powers conferred under Section 16 of the Tamil Nadu Forest Act, 1982 declared the Megamalai Forest Block in Andipattu Taluk of Theni District as Reserved Forest. Admittedly, the writ petitioners / respondents herein did not make any challenge to the aforesaid declarations issued by the Forest Department in respect of S.No.280 and they also failed to prove that the land claimed is a ryot land and properly included in the holding of the ryot. This can be proved only



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by pattas issued by the Zamindar or the land holder to the ryots and the pattas should be renewed for every Fasli years succeeding, to prove the continuous possession and enjoyment of the land claimed. The writ petitioners or their predecessors-in-title failed to produce any valid record such as, the patta issued by the Zamindar, tax receipts or other revenue receipts in respect of the land in dispute. Further the schedule of properties in the suit in O.S.No.66/1955 is not clear as to the total extent of land only patta number has been mentioned and there is no clear mention as to whether S.No.280 is included in the said schedule of properties and the writ petitioners have not produced any substantive material to prove that S.No.280 is included in the said schedule property.

21. This matter was being agitated before various settlement forums from the year 1963 onwards. Originally, an order was passed by the Assistant Settlement Officer in his proceedings S.R.10/PKM/63-11(a) dated 16.04.1963. This order was challenged before the Settlement Officer, who remanded the case. Ever since appeals and revisions were being made before Settlement Officer, Director of Survey and Settlement, Special Commissioner and Commissioner of Land Administration and



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there are altogether 18 proceedings by various settlement authorities in this matter. All the settlement proceedings right from 1963 onwards went against the writ petitioners / respondents, except in one order passed by the Assistant Settlement Officer in proceedings SR 11(a)/3/95 dated 24.07.1996, wherein the claim made by revision petitioners were admitted. This said order was challenged by the District Forest Officer, Theni before the Settlement Officer, Thanjavur, who vide order in R.P.No.14/96 dated 30.12.96, had set aside the orders of the Assistant Settlement Officer, Madurai dated 24.07.1996 and the suit land is ordered to be continued as Forest. The said order of the Settlement Officer was also confirmed by the Commissioner and Director and Survey and Settlement Officer in his proceedings R.P.4 & 5 / 97 dated 15.09.1998. Against this order, the petitioners have filed revision before the Special Commissioner and Commissioner of Land Administration and the same was dismissed. Thereafter W.P.No.6149 of 2003 came to be filed by the respondents/writ petitioners, wherein this Court directed the matter to be considered afresh after affording opportunities. Thereafter, the Special Commissioner and Commissioner of Land Administration once again considered the issue and vide order dated 14.09.2007 has held



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against the writ petitioners/ respondents, by upholding the order of the Settlement Officer, Thanjavur dated 30.12.1996.

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22. When the lands in question were notified under the Tamil Nadu Forest Act, 1882 and the petitioners did not make any challenge to the proceedings initiated under the Tamil Nadu Forest Act and in the light of the specific stand taken in the counter affidavit that there is no cultivation activities carried out in the entire extent of land and the photographs produced shows that it is only a forest land, the claim of the respondents/writ petitioner claiming ryotwari patta under the Act, 1948 by merely relying upon the order of the Assistant Settlement Officer, Madurai dated 24.07.1996, lacks merit and substance.

23. All the merits of the claims of the writ petitioners/ respondents have been discussed in detail in the order of the Settlement Officer in his proceedings in R.P.No.14/96 dated 30.12.1996, Director of Survey and Settlement dated 15.09.1998 in R.P.Nos.4 & 5/ 1997, Special Commissioner and Commissioner of Land Administration in R.P.No.2/2000 dated 22.03.2002 and his subsequent order dated



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14.09.2007 in ROC.K1.8686/2003. The Writ Court, while allowing the writ petitions, had failed to consider the various well considered orders passed by the Settlement Authorities and simply gone by the Civil Court judgment and decree, which was passed long back dated 16.04.1957 in O.S.No.66/1955 on the file of the Sub-Court, Dindigul and also the order of the Assistant Settlement Officer, Madurai dated 24.07.1996. This Court, in exercise of its appellate jurisdiction, is of the view that the order of the writ Court warrants interference and finds considerable merit in these writ appeals.

24. In the result, these Writ Appeals stand allowed and the common order dated 17.12.2015 in W.P.Nos.39957 of 2005 and 3522 of 2009 is set aside. No costs. Consequently, connected miscellaneous petitions are also dismissed.

[D.K.K., J.,] [P.B.B., J.]
30.08.2023

Index:yes/no
Internet:yes
Jvm

D.KRISHNAKUMAR, J.,



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

Jvm

To

1.The Settlement Officer,
Thanjavur.

2.Tahsildar,
Andipatti.

3.The Special Commissioner and
Commissioner of Land Administration,
Chennai-5.

**Common Judgment in
W.A.Nos.1133 and 1134 of 2016**

30.08.2023