



WEB COPY

WP No.15262 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 07-07-2023**

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**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**WP No.15262 of 2023**

**And**

**WMP Nos.14755 and 16667 of 2023**

1.Krishnakumar Desai

2.Lodd Ramgopal

... Petitioners

Vs.

1.The Commissioner of Land Administration,  
Commissionerate of Land Administration,  
Chepauk,  
Chennai-600 005.

2.The Assistant Settlement Officer (North),  
Directorate of Survey and Settlement,  
Chennai-600 005.

3.The District Collector,  
Ranipet,  
Ranipet Collector Office,  
Vellore-632 401.



4.The Sub-Collector,  
Ranipet District,  
Ranipet Collector Office,  
Vellore-632 401.

5.The Tahsildar,  
Wallajapet Taluk,  
Ranipet,  
Vellore.

6.Thiru R.Sivagnanam,  
Representing the Villagers of Puliangannu  
and Avarakarai Areas,  
Nawlakh Garden Village,  
Wallajah Taluk,  
Vellore District.

7.Nawlakh Puliyakannu Panchayat Makkal  
Nala Sangam,  
Represented by its Secretary,  
Thiru M.Narayanan,  
Nawalakh Village,  
Walajah Taluk,  
Vellore District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Prohibition prohibiting the first respondent from proceeding with the suo moto enquiry pursuant to the Enquiry Notice dated 03.05.2023 in K1/1212747/2021 as the same is illegal and wholly without jurisdiction.

For Petitioners

: Mr.Sharath Chandran



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For Respondents-1 to 5 : Mr.Stalin Abhimanyu,  
Additional Government Pleader.

For Respondent-6 : Mr.Aswin Prasanna

For Respondent-7 : Deceased

## **ORDER**

The Writ of Prohibition has been instituted to prohibit the first respondent proceeding with the suo motu enquiry pursuant to the enquiry notice dated 03.05.2023.

2. The petitioners state that they are the absolute owners of the lands in Survey Nos.19/5, 19/7, 195/5, 204/1 and 204/2 situated in Ranipet District, Wallajah Taluk, Nawlakh Village admeasuring a total extent of 137.610 acres along with the lands in Patta No.279 admeasuring an extent of 124.50 Hectares. The lands were allotted to the share of the grandfather of the petitioners and their brothers, by a decree passed by this Court on 21.07.1959 in OS No.210 of 1947.



3. The learned counsel for the petitioners referred the documents to establish the title of the petitioners.

4. It is contended that the ownership of the petitioners is supported through the decree passed by this Court. Therefore, the Commissioner of Land Administration has no locus to conduct enquiry in respect of the title stands in the name of the petitioners.

5. The learned Additional Government Pleader appearing on behalf of the respondents-1 to 5 raised an objection by stating that the present writ petition has been instituted challenging the enquiry notice and therefore, not maintainable.

6. The Commissioner of Land Administration has taken a decision to conduct an enquiry pursuant to the conditions filed by the several cultivators residing in Puliangannu and Avarakarai areas. Therefore, the present writ petition is to be rejected.



7. The learned Additional Government Pleader appearing on behalf of the respondents-1 to 5, referred paragraphs-10 and 11 of the counter-affidavit filed by the respondents, which read as under:-

*“10. With regard to the averments raised in Ground A of the affidavit, it is submitted that the rulings mentioned in the affidavit has no relevance to this present case as this case comes under the provisions of Tamil Nadu Levy of Ryotwari Assessment of Freehold Lands Act, 1972 (Tamil Nadu Act 31 of 1973) whereas the citation as quoted by the petitioner pertains to the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act 30 of 1963. In the instant case, the District Collector Ranipet has sent a report stating that a lot of irregularities were noticed during settlement and during acquisition of lands under the Act 1956. Hence the above irregularities of the Assistant Settlement Officer under Section 8(1) of Tamil Nadu Act 1 of 1973 should be rectified for which a SUO-MOTU revision under Section 11 of the Tamil Nadu Levy of Ryotwari Assessment of Freehold Lands Act 1972 (Tamil Nadu Act 31 of 1973). Hence the*



*judgment [Sri Mahalingaswami Devasthanam, Thiruvidadaimaruthur and another vs. The State of the Tamil Nadu and Another (1993) 1 MLJ 527] relied upon the petitioners are not applicable to the case on hand. Therefore, the first respondent herein has issued an enquiry notice dated 03.05.2023 is in accordance with the prevailing Acts/ Rules in force.*

*11. With regard to the averments raised in Ground B of the affidavit, it is submitted that in order to arrive a conclusion for whom could have to pay the levy of ryotwari assessment to Government read with Section 2(h) and 9 of the Tamil Nadu Act 31 of 1973, the first respondent herein has issued an enquiry notice to the pattadhars concerned to present all the available records with them pertaining to ryotwari assessment and issuance of patta on the subject lands. Hence, the action for initiation of the suo motu revision under Section 11(1)(i) of the Tamil Nadu Act 31 of 1973 is within the jurisdiction of the first respondent herein.”*



8. The adjudication of disputed facts in the present order would cause prejudice to either of the parties. The power of Judicial Review of the High Court under Article 226 of the Constitution of India is that the processes through which a decision has been taken by the Authorities in consonance with the Statutes and the Rules, but not the decision itself. Thus no writ against an enquiry notice is ordinarily entertainable, unless such notice has been issued without jurisdiction or tainted with the allegations of mala fide.

9. In normal circumstances, the Authorities Competent must be permitted to conduct an enquiry in order to cull out the truth and pass appropriate orders, if any appeal has been contemplated under the Statute. Then the parties may exercise their appellate remedy alone.

10. The factual findings of the Original Authority and the Appellate Authority would be of greater assistance to the High Court for the purpose of exercise of powers of Judicial Review in an effective manner. Thus the Authorities under the Statutes must be allowed to exercise their



powers independently for an effective adjudication of the disputed facts between the parties based on the documents and evidences available on record.

11. The learned counsel for the petitioners relied on certain judgments. It is needless to state that all such grounds, including the judgments may be placed before the Commissioner of Land Administration, who is competent to adjudicate the legal grounds also.

12. The enquiry was taken up based on the report submitted by the Sub Collector dated 13.01.2021. All those documents relied on and the findings in the report are to be adjudicated by affording an opportunity to the writ petitioners also.

13. In view of the facts and circumstances, the parties are at liberty to adjudicate the issues before the Commissioner of Land Administration, who in turn is expected to proceed with the enquiry and dispose of the matter as expeditiously as possible by following the procedures and by affording an opportunity to all the parties concerned.



14. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**07-07-2023**

Index : Yes/No  
Internet: Yes/No  
Speaking order/Non-Speaking order  
Neutral Citation : Yes/No  
Svn

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5.The Tahsildar,  
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**S.M.SUBRAMANIAM, J.**

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