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W.P.No.26676 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 11.10.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**

**W.P.No.26676 of 2023**

1.K.Duraisamy  
2.K.Karupaiyan  
3.K.Rajavel

...  
Vs.

Petitioners

1.The District Collector,  
Salem District, Salem.

2.The Revenue Divisional Officer,  
Attur Sub Division, Attur,  
Salem District.

3.The Tahsildar,  
Thalaivasal Taluk,  
Thalaivasal, Salem District.

...

Respondents

**Prayer:** Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to take necessary steps to issue the patta in S.No.152/2 to the petitioners name based on the petitioner's representation dated 15.05.2023.

For Petitioners : Mr.D.Ashokkumar

For Respondents : Mr.P.Gurunathan  
Additional Government Pleader



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**ORDER**

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The petitioners have filed the present writ petition for issuance of a Writ of Mandamus directing the respondents to take necessary steps to issue the patta in survey No.152/2 in the name of the petitioners based on their representation dated 15.05.2023.

2.The case of the petitioners is that one Periyasamy, who is the adjacent land owner and cultivating the Tharisu land, with an intention to disturb the petitioners' peaceful cultivation, filed a writ petition in W.P.No.10174/2022 before this Court seeking removal of encroachment in survey No.152/1 and 152/2. On 06.06.2022, this Court also has taken the abovesaid case for final hearing without issuing notice to the petitioners and disposed of the same with a direction to the respondents that in future also, the said Odai Poramboke land in survey 152/1 would be maintained and kept free from encroachment. So far as S.No.152/2 is concerned, it would be also used for the purpose it is meant for. The first petitioner is cultivating the said land in Survey No.152/2 along with his brother and the patta was also issued to one Sathya and in order to grab the petitioners' land, the said Periyasamy made a several representations to the authorities and not only the petitioners, there are 12



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persons, who are landless cultivating this type of Tharisu land. The Revenue

Inspector Veeraganoor sent a notice under Section 7 of Madras Act – III, 1905 stating that to give a reply on or before 15.05.2023 regarding to impose the land tax or remove the encroachments. The petitioners also sent a reply on 15.05.2023 and without considering their reply, the petitioners were not permitted to enter into the land. In the said land, the petitioners and the other persons were cultivating cotton plant and they could not watering them. The petitioners had also sent a representation dated 15.05.2023 seeking to issue of patta in their name. Based on their representation, District Collector sent a communication to the Revenue Divisional Officer, Attur for taking necessary action on their representations and copy also addressed to them. Thereafter, the Revenue Divisional Officer, Attur sent a communication to the Tahsildhar for taking further action and make field visit and submit report within 30 days. Thereafter, no action was taken. Therefore, the petitioners have approached this Court by way of the present writ petition to issue patta based on their representation.

3.The main contention of the learned counsel appearing for the writ petitioners is that the subject matter of the property is Tharisu land and the



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petitioners and other persons are cultivating the Tharisu land for more than 20 years and similar person, who is cultivating Tharisu land, was given a patta and the petitioners were not given patta. Though the first respondent asked the second respondent for taking necessary action on the representation of the petitioners, thereafter, the second respondent sent a communication to the third respondent, so far, the third respondent has not taken any action.

4. Heard the submission made by the learned Additional Government Pleader appearing for the respondents.

5. I have considered the matter in the light of the submissions made by the learned counsel appearing for the petitioners as well as the respondents and perused the materials available on record.

6. On perusal of the records, it is seen that though the representation made by the petitioners stating that the survey No.152/2 is a Tharisu land and the petitioners and other persons are cultivating the land for more than 20 years, there is no material produced by them to show that they are cultivating the land for more than 20 years. Whether admittedly the land is classified as



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the Government Tharisu, where the petitioners cultivating Cottan plant is a matter of evidence and one Periysamy filed the writ petition in W.P.No.10174 of 2022 that survey Nos.152/1 & 152 /2 are Odai Poromboke, the petitioners are tried to encroach the same. Therefore, unless the petitioners establish that they are cultivating the above land for more than 20 years, they are not entitled to get patta but they are not producing any material to show that they are in possession and enjoyment of the abovesaid land.

7.In view of the above, the petitioners are not entitled to relief sought for and whether they are cultivating the land for more than 20 years is a matter of evidence and therefore, this Court cannot issue a writ of mandamus directing the respondents to issue patta to the petitioners. Accordingly, the writ petition is dismissed. However, the respondents are directed to initiate the proceedings on the representation made by the petitioners and dispose of the same, after giving an opportunity to all interested persons if any, in accordance with law.  
No costs.

Index : Yes/No  
Internet : Yes/No  
sms

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To

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**P.VELMURUGAN, J.**

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