



WEB COPY



W.P.No.24489 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24489 of 2023

- 1.Saira Banu
- 2.H.Haseena
- 3.Bilal
- 4.Shakila
- 5.Fazlur Rahman
- 6.Noor Mohammed
- 7.N.Noorunnisa
- 8.K.Mohideen
- 9.K.M.Hussain

...Petitioners

Vs

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department,
Fort St. George, Chennai – 9.
- 2.The District Collector,
Chennai – 600 001.
- 3.The Divisional Revenue Officer [DRO],
Chennai – 600 001.
- 4.The Revenue Divisional Officer [RDO],
Chennai – 600 001.



W.P.No.24489 of 2023

WEB COPY

5.The Tahsildar,
Perambur Taluk Office,
Chennai – 600 011.

6.The Custodian,
The Office of the Custodian of
Enemy Property of India,
Kaiser-I-Hind Building,
Ballard Estate, Curribhoy Road,
P.B.No.689, Mumbai – 400 038.
[R6 suo motu impleaded vide order
dated 07.09.2023]

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 5th respondent to rectify the mistake and show petitioners' land of 1.19 acres [55 ares], having patta No.386, comprised in old survey No.44, new survey No.34-Part, Block 11, situate at No.67, Madavaram High Road, Chennai-11, having bounded in the North by: Pallavan Salai, South by: House site No.34 of Naseer Hussain Doni, East by: Don Bosco Hr.Sec School play ground, West by: Ponnusamy Nagar, in the PLR and issue copy of the same to the petitioner.

For Petitioners	:	Mr.Secular S.Arun Kumar
For R1 to R5	:	Mr.R.Ramanlaal Additional Advocate General-IV Assisted by Mr.T.Venkatesh Kumar Special Government Pleader
For R6	:	Mr.K.Srinivasamurthy SPCGSC



W.P.No.24489 of 2023

ORDER

WEB COPY

The relief sought for in the present writ petition is to direct the 5th respondent to rectify the mistake and show the lands belonging to the petitioner measuring to an extent of 1.19 acres [55 ares], having patta No.386, comprised in old survey No.44, new survey No.34-Part, Block 11, situate at No.67, Madavaram High Road, Chennai-11, having bounded in the North by: Pallavan Salai, South by: House site No.34 of Naseer Hussain Doni, East by: Don Bosco Hr.Sec School play ground, West by: Ponnusamy Nagar, in the PLR and issue copy of the same to the petitioner.

2.The petitioners state that they have filed an application to rectify the mistake in the revenue records and the said application was not considered. Thus the petitioners are constrained to move the present writ petition.

3.The petitioners state that a vacant landed property measuring to an extent of 1.19 acres having Patta No.386 comprised in old Survey No.44, new survey No.34-Part, Block 11, situated at No.67, Madavaram High Road, Chennai-11, Sembium Village was belonged to the ancestors of the



W.P.No.24489 of 2023

petitioners. The petitioners inherited the property and on verification, they found that erroneous entries were made in the revenue records. In order to rectify the mistake, the petitioners submitted an application.

4. With reference to the doubt raised by the petitioners regarding the entries made in the revenue records, this Court directed the respondents to conduct a survey and submit a report.

5. The learned Additional Advocate General appearing on behalf of the State relying on the status report filed by the District Collector, Chennai made a submission that there was no error identified in the revenue records. The property claimed by the petitioners is declared as an Enemy Property under the provisions of the Enemy Property Act, 1968. In respect of the subject property, it vests with the Government of India and is maintained by the custodian of the Enemy Properties.

6. The Government of India filed a counter affidavit stating that the property bearing survey No.34 is an Enemy Property and there is no basis



W.P.No.24489 of 2023

for the petitioners to claim right over the said property. The petitioners have no locus standi in the land bearing S.No.34 which is an enemy property vested with the Custodian of Enemy Property for India [CEPI]. The petitioners have referred to Old Survey No.44, while there is no reference to old Survey No.44 in the PLR. No notification about the old and new survey number issued by the Municipal Authority is attached to prove that both are same property.

7. With reference to the contentions raised by the Government of India, it is relevant to consider the status report filed by the District Collector, Chennai after conducting an elaborate survey of the subject lands. The relevant portion of the status report reads as under:

“6..... in field inspection it is found that the portion of land claimed by the petitioner is situated in T.S.No.34 Block No.11 of Sembum Village. The said land is surrounded by a compound wall and is used by the Don Bosco Higher Secondary School as play ground. The land claim by the petitioner stands registered in the Revenue records as follows:



W.P.No.24489 of 2023

<i>Taluk</i>	<i>Perambur</i>
Village	Sembium
Block No.	11
T.S.No.	34
Old S.No.	159, 160 161/2
Classification	Ryotwari Manai
Extent	Hec.Ares. Sq.mts. 02 03 18.0
Adangal	Custodian of enemy property of India
How the holding is utilized	Vacant

The four side boundaries of the aforesaid subject land
are are furnished below:

<i>North by:</i>	<i>T.S.No.1 Pallavan Salai</i>
South by:	T.S.Nos.32/1, 35, 36, 37 and 39
East by:	T.S.No.45 Don Bosco School
West by:	T.S.Nos.33/56, 33/55, 33/54, 33/44, 33/37, 33/36, 33/26, 33/21, 33/26, 33/14, 33/9 and 33/57

A sketch showing the map location of the enemy
properties comprised in S.Nos.30, 31/1, 31/2, 32, 34 and 45
of Block No.11 of Sembium Village is sent herewith.

7.....as such the said land is an enemy property.
The enemy properties are vested with the Custodian of
Enemy properties for India [i.e., CEPI], an authority created



W.P.No.24489 of 2023

under the Enemy Property Act, 1968. The said property is governed by CEPI and the CEPI shall leased out the said land to Don Bosco Higher Secondary school from 1985 vide GOI office of the Custodian of Enemy Property for India No.6(5)/3057 dated 06.03.1985 under Section 8 of “The Enemy Property Act, 1968”. The lease was renewed by the way of sending lease amount since 1920. After 1921 the lease amount was not accepted by the CEPI. Hence, the Don Bosco Higher Secondary School has filed W.P.No.28448 of 2021 with a request to accept the lease amount of Rs.96,583/- [Rupees Ninety Six Thousand Five Hundred and Eighty Three only] per annum and the same is pending in the Hon'ble High Court of Madras as of now.

8..... the property for which patta is sought for by the petitioners was declared as an enemy property by the Government of India and the said land is vested with the Custodian of Enemy Property of India. The portion of the land measuring 1.19 acres of land requested by the petitioner is a part and parcel of the land being used by the Don Bosco Higher Secondary School as a play ground.

9..... as per section 8 of the principal Act, “(1) With respect to the property vested in the Custodian under this Act, the Custodian may take or authorize the taking of such measures as he considers necessary or expedient for



preserving such property till it is disposed of in accordance with the provisions of this Act”. The fixation and collection of rent, lease, licence fee or usage charges is done by the Custodian. Therefore, the Custodian of Enemy Properties of India is a necessary part in this writ Proceedings. But, the petitioners failed to implead the Custodian of Enemy Property as a Respondent in this case.

10.....the said land claimed by the petitioner is an enemy property and is vested with the Custodian of Enemy Property of India.”

8.The revenue authorities of the State of Tamil Nadu conducted an elaborate survey with reference to the claim of the writ petitioners and arrived at a conclusion that the said land is declared as Enemy Property under the provisions of the Enemy Property Act, 1968 and therefore vested with the custodian of Enemy Properties of India. Therefore, the claim of the writ petitioners for grant of Patta has been rightly rejected by the competent authorities. Since it is a vacant land, the competent authorities are directed to take possession of the Enemy Properties as contemplated under the provisions of the Enemy Properties Act and hand over the same to the authorities concerned by following the procedures.



W.P.No.24489 of 2023

WEB COPY

9. At this juncture, the learned counsel for the petitioners made a submission that the petitioners may be permitted to prefer an appeal under the Act. There is no impediment for the petitioners to prefer any such appeal as contemplated under the provisions of the Act.

10. With this liberty, the writ petition stands dismissed. No costs.

21.09.2023

cse

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No



W.P.No.24489 of 2023

WEB COPY

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George, Chennai – 9.
- 2.The District Collector,
Chennai – 600 001.
- 3.The Divisional Revenue Officer [DRO],
Chennai – 600 001.
- 4.The Revenue Divisional Officer [RDO],
Chennai – 600 001.
- 5.The Tahsildar,
Perambur Taluk Office,
Chennai – 600 011.
- 6.The Custodian,
The Office of the Custodian of Enemy Property of India,
Kaiser-I-Hind Building,
Ballard Estate, Curribhoy Road,
P.B.No.689, Mumbai – 400 038.



WEB COPY



W.P.No.24489 of 2023

S.M.SUBRAMANIAM, J.

cse

W.P.No.24489 of 2023

21.09.2023