



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

Coram

The Hon'ble Mr.Justice **D.Krishnakumar**
and
The Hon'ble Mr.Justice **P.B.Balaji**

W.A.No.57 of 2020
C.M.P.No.784 of 2020
C.M.P.No.1390 of 2021
C.M.P.No.20401 of 2023
and
W.P.No.40948 of 2005

1. Mr.A.Punniakodi
2. Mr.P.Ramadoss
3. Mr.S.Subramani
4. Mr.R.Manoharan
5. Mr..P.Nagesh
6. Mr.M.Devendran
(Appellants 1 to 6 are rep. by
their Power of Attorney, Agent,
P.K.O.Habeeb)
7. Mr.G.Jalaludeen

...Appellants 1 to 6 in W.A.
...Petitioners 1 to 7 in W.P.

Vs.



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

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1. The Special Commissioner & Commissioner
of Land Administration,
Chepauk, Chennai – 5.
2. The District Revenue Officer,
Collectorate Office,
32, Rajaji Salai, Chennai – 1.

3. The Kalakshethra Foundation
rep. by its Director,
Thiruvanmiyur,
Chennai – 600 041.

4. Kasnavi

...R-1 in W.P.

5. Muthu Mohammed
6. Nasi Banu
7. Yasmin Begum
8. J.Ashrab Ali
9. Habiba Beevi

...Respondents 1 to 9 in W.A.

10. The Estate Officer,
Kalakshethra Foundation
Thiruvanmiyur,
Chennai – 600 041.

...R-2 in W.P.

(R-4 to 9 are not contesting respondents
hence notice to them is not necessary)

Writ Appeal filed under Section 15 of Letters Patent to set aside the



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

order passed by the learned Single Judge of this Court, in W.P.No.22384 of 2007, dated 26.06.2019.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the second respondent in Ref.K.P./SC Notice 2005 and to quash the notice therein dated 09.07.2005.

Appearance of the Counsel
in W.A.

For Appellants	: Mr.T.Susindran
For Respondents 1 & 2	: Mrs.Geetha ThamaraiSelvan Special Government Pleader
For Respondent-3	: Mr.S.Raghunathan
For Respondents 4, 6-9	: Mr.S.Parthasarathy Senior Counsel for Mrs.M.Abbiraami

**Appearance of the Counsel
in W.P.**

3/19



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

For Petitioner : Mr.T.Susindran
For Respondent-1 : Mr.S.Raghunathan
Respondent-2 : No appearance

COMMON JUDGEMENT

(Judgement of the Court was made by **D.Krishnakumar,J.,**)

Since both the Writ Petition and the Writ Appeal have been preferred by same parties and the relief sought for thereunder are interconnected, both the Writ Petition and Writ Appeals were heard together and disposed of vide this common order and the parties shall be referred to as per their ranked assigned in the Writ Appeal.

2. The challenge in the Writ Appeal is to the order passed by the learned Single Judge of this Court in W.P.No.22384 of 2007, dated 26.06.2019, whereby, the Writ Petition was dismissed.

3. Writ Petition No.40948 of 2005 is filed seeking to quash the



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

notice issued by the second respondent, Estate Officer, Kalakshethra Foundation Thiruvannamipur dated 09.07.2005, whereby and whereupon, the petitioners/appellants were called upon to show cause as to why, an order for eviction should not be passed against them in respect of an property, in S.No.170/1 (part) in Thiruvannamipur Village.

4. The brief facts of the case are as follows:-

i) The case of the appellants is that land measuring an extent of 1.5 acres comprised in R.S.No.170/1B at Thiruvannamipur Village, Saidapet Taluk, Chenglepet District was in possession and enjoyment of the appellants. The total extent of the property in S.No.170/1 was 4 acres and 26 cents and during 1976-77, there was a sub-division effected to S.No.170/1 and the same was subdivided as S.No.170/1A and S.No.170/1B, out of which, S.No.170/1A belonged to Kalakshetra Foundation and S.No.170/1B belonged to the appellants.

ii) In the year 1997, the Collector of Chennai, Thasildar, Mylapore,



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

Commissioner of Corporation and Police Officials have interfered with the peaceful possession and enjoyment of the appellants and hence, one G.Jalaludeen, one of the purchaser of the property from the appellants (R-7 in the present Writ Petition filed a W.P.No.9989 of 1997, for mandamus, forbearing the aforesaid Officials from interfering with the peaceful possession of the property. Subsequent to the filing of the Writ Petition, a Town Survey was done and the Tahsildar Mylapore-Triplicane Taluk, Chennai has issued a certificate dated 30.10.1998 stating that the property, measuring an extent of 1.29.82.5 hectares corresponding to S.No.170/1A belonged to the Kalakshethra Foundation and property, measuring 0.52.87.5 hectares corresponding to S.No.170/1B belonged to the appellants.

iii) Pursuant to the said certificate issued by the Tahsildar, Mylapore dated 30.10.1998, W.P.No.9989 of 1997 filed by the seventh petitioner, viz. G.Jalaluddin (one of the purchaser of the property from the appellants) was disposed of by order dated 10.11.1998, holding that in view of the certificate dated 30.10.1998, possession of the parties had been decided, hence, it is



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

not open to i) Collector of Chennai, ii) Thasildar Mylapore, iii) Commissioner of Corporation and iv) Police Officials to interfere with the appellants' peaceful possession and enjoyment of the properties.

iv) While that being so, the Estate Officer, Kalakshethra Foundation issued a show cause notice dated 09.07.2005 against the appellants stating that he has been appointed by the Central Government in respect of the properties belonging to the Kalakshethra Foundation and as such, he is empowered to take action against the appellants for unlawful possession of the property belonging to the said Foundation and sought for eviction. Hence, the appellants and said purchaser, G.Jalaluddin filed W.P.No.40948 of 2005 seeking to quash the said notice dated 09.07.2005.

v) The Estate Officer, Kalakshethra Foundation also moved the District Revenue Officer (D.R.O.) for cancellation of patta granted in favour of the appellants. The D.R.O. by order dated 04.04.2006 ordered for cancellation of patta and the same was also confirmed in a Revision filed by



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

the appellants before the Special Commissioner & Commissioner of Land Administration, by order dated 15.03.2007. Challenging the said order passed by the first respondent, Special Commissioner & Commissioner of Land Administration dated 15.03.2007, whereby, the order passed by the second respondent/D.R.O. was confirmed, the appellants/petitioners have filed W.P.No.22384 of 2007.

vi) The Writ Court by its order dated 26.06.2019, dismissed the Writ Petition holding that there is no error in the order passed by both the fact finding Authorities.

vii) Challenging the said order passed by the Writ Court in W.P.No.22384 of 2007, dated 26.06.2019, the present Writ Appeal is filed by appellants 1 to 6 and challenging the show cause notice, dated 09.07.2005, issued by the Estate Officer, Kalakshethra Foundation, W.P.No.40948 of 2005 is filed by the very same six appellants and one another, viz., G.Jalaluddin, who is the subsequent purchaser of the property



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

from the appellants.

7. We have heard learned counsel for the parties concerned and perused the entire materials on record.

8. When the Writ Appeal came up for hearing before the Division Bench on 07.08.2023, since it is stated by the appellants that the land comprised in S.No.170 was subdivided into S.No.170/1A and S.No.170/1B, of which, the land comprised in S.No.170/1A belonged to the Kalshethra Foundation and the land comprised in S.No.170/1B belongs to the appellants and patta has also been granted to them in the year 1978, however, the same is disputed by the third respondent, Kalakshethra Foundation stating that there is no subdivision of the property in S.No.170 and entire extent of the land as well the patta in respect of S.No.170 stands in their name, Tahsildar, who was present in Court also buttressed the contention of the Kalakshethra Foundation that there was no sub-division of the property in S.No.170, in order to resolve the issue, we directed the



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

second respondent/D.R.O. to conduct an enquiry and file a report regarding the genuineness of the patta issued to the appellants and asked for such details by way of raising following questions:-

- i) Whether any application made by the appellants in writing ?
- ii) Under what proceedings, an order came to be passed directing patta to be issued to the appellants and also to confirm?
- iii) Whether the patta No.176 dated 07.07.1978 is a genuine or a forged/fabricated patta?

9. Pursuant to the aforesaid direction, D.R.O. Chennai District filed a report dated 04.09.2023, inter alia, stating that the appellants and five others approached the Office of the Assistant Director of Survey and Land Records and made an application and thereby, fraudulently obtained an extract, duly incorporating their names in the said Town Survey Land Record in respect of an extent of 5287.5 sq. mts of land comprised in Old S.No.170, which was correlated to T.S.No.295 of Block No.55 of



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

Thiruvannmiyur Village. The said inclusion was made without production of any documents by the appellants. Thereafter, in the year 2000, the appellants had approached the Office of the erstwhile Tahsildar, Mylapor-Triplicane Taluk and submitted an application and obtained a patta duly transpositioning their names from the occupier column to the Adangal column (registered holders) and thereby, got their names mutated in the revenue records as pattadars of the land in question. Hence, the D.R.O vide proceedings dated 04.04.2006 rightly cancelled the patta. Against which, the appellant filed Revision before the Special Commissioner and Commissioner of Land Administration. The said Authority rightly confirmed the order passed by the D.R.O Thus, by stating so, the D.R.O sought for appropriate orders.

10. Thus, on a perusal of the aforesaid report, it is seen that the officials of the office of the Assistant Director of Survey and Land Records had issued an extract furnishing the names of the appellants in respect of T.S.No.295 of Block No.55 of Thiruvannmiyur Village as occupiers of the



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

subject property, thereafter, in the year 2000, a patta was issued by the Tahsildar, Mylapore-Triplican Taluk on 04.02.2000 for an extent of 5287.5 sq.mts of land comprised in T.S.No.295 by transposition of the entries from occupier column to adangal column to show that the appellants were the registered holders of the said property and since at that point of time, a blanket order was issued by the Assistant Director of Survey and Land records in the year 1999 to treat the occupiers, viz., the appellants as owners of the respective lands, the names of the aforesaid individuals (appellants) were taken to the adangal column in respect of land measuring an extent of 5287.5 sq.metres in respect of T.S.No.295 of Block No.55 of Thiruvanniyur Village vide No.B1/5259/99 dated 20.02.1999, however, the said blanket order was subsequently withdrawn and hence, D.R.O. after conducting enquiry, rightly canceled the patta granted in favour of the appellants and one other person, viz., G.Jalaluddin, and the said cancellation was also approved by the Special Commissioner and Commissioner of Land Administration by means of the impugned order, dated 26.06.2019.

11. Further, on perusal of the order impugned in Writ Appeal dated



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

26.06.2019, it is seen that the learned Single Judge of this Court has in fact has gone into the entire aspects of the matter and dismissed the Writ Petition and the operative portion of the said order is extracted hereinbelow:-

“50. In the present case, the third respondent produced lot of records in order to substantiate the title including the sale deeds, order of the Assistant Settlement Officer, Chengalpattu and revenue records. However, the petitioners did not produce any piece of evidence in order to substantiate his claim except patta granted by the Deputy Tahsildar on 07.07.1978 and the subsequent Certificate dated 30.10.1998 issued by the Tahsildar, Mylapore – Triplicane Taluk. Further, the petitioners also failed to produce the documents to show on what basis they secured the patta.

51. On a perusal of the order of the Assistant Settlement Officer, Chengleput, dated 09.04.1975 shows that the land in S.No.170/1 is a ryotwari land. While being so, how patta was granted in favour of the petitioners by the regular Tahsildar on 07.07.1978 was not explained by the Tahsildar and it creates suspicion. Even in the Certificate dated



WEB COPY



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

**30.10.1998 issued by the Tahsildar, Mylapore –
Triplicane Taluk, the adangal column is blank in
respect of the petitioners.**

52. Hence, the District Revenue Officer as well as the Special Commissioner has rightly arrived at a conclusion that the Taluk Office has granted patta without any basis. In view of the above, this Court is not inclined to issue direction to the parties to approach the Civil Court. It is an unnecessary exercise. Hence, I have no hesitation to arrive at a conclusion that the patta obtained in the year 1978 and the Certificate obtained in the year 1998 is without any basis and there is no back records available to substantiate the above said revenue records. 53. After hearing the counsels, this Court reserved the writ petition for orders on 26.06.2019. Thereafter, the learned Additional Advocate General mentioned that he wants to produce certain documents. Accordingly, he produced copy of the document in Document No.1652 of 1962 which was said to have been registered in the name of the petitioners on 27.06.1962 by Rukmini Devi Arundale 45 <http://www.judis.nic.in> W.P.No.22384 of 2007 is bogus. Accordingly, notice was given to the petitioners and copy



WEB COPY



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

of the said document was also furnished to the petitioners. The learned counsel appearing for the petitioners clearly say that he did not rely upon the document and he did not know as to how the said document was prepared in favour of the petitioners. 54.Though the counsel appearing for the third respondent submits that there is a criminal case registered against the petitioners and other persons and till date the criminal case is pending before the Investigating Officer, this Court refrains itself from giving any opinion with regard to the criminal case said to have been pending against the petitioners, which is the subject matter of investigation. 55.In view of all the above, I do not find any error in the order passed by the second respondent and confirmed by the first respondent, since they have elaborately considered the issue after perusing the entire records and has held against the petitioners. Since both the fact finding Authorities have arrived at a conclusion, this Court is not inclined to interfere with the above said orders."

12. Thus, in the light of the well considered order passed by the learned Single Judge of this Court and taking into consideration of the report



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

filed by the Revenue Authorities, wherein, it is stated that the appellants manoevered to obtain patta in their names by playing fraud, we are inclined to interfere with the order impugned in the Writ Appeal. Accordingly, we dismiss the Writ Appeal.

13. In view of the Judgement passed by us in the Writ Appeal, whereby, the order passed in W.P.No.22384 of 2007 is upheld, the relief sought for in Writ Petition No.40948 of 2005 viz., to quash the show cause notice proposing eviction of the petitioners by the second respondent, Estate Officer, Kalakshethra Foundation Thiruvannamiyur dated 09.07.2005 cannot be granted. However, considering the fact that the dispute between the appellants and the third respondent, Kalakshethra Foundation with respect to the property in S.No.170 situated at Thiruvannamiyur Village is civil in nature, this Bench while sitting under Article 226 of the Constitution of India cannot act as fact finding Authorities and go into such disputed questions of fact. Therefore, it is left open to the parties to work out their remedy before appropriate forum in the manner known to law.



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY

14. In the result, Writ Appeal No.57 of 2020 is dismissed and W.P.No.40948 of 2005 is disposed of, as stated supra. However, there shall be no order as to costs. Consequently, connected C.M.P.No. 784 of 2020 and C.M.P.No.1390 of 2021 is closed and insofar as W.P.M.P.No.43940 of 2005 in W.P.No.40948 of 2005 is concerned, the same also stands closed and the interim stay granted thereunder is vacated. So far as C.M.P.No.20401 of 2023 in Writ Appeal is concerned, the same has been filed by the petitioners 1 to 5 seeking to implead them as appellants 7 to 11 in the Writ Appeal. As already observed in the preceding para, since this Bench, pursuant to the Status Report filed by the Revenue Authorities had arrived at a conclusion that the dispute between the appellants/writ petitioners and third respondent-Kalakshethra Foundation was the subject matter of Appeal and the same is dismissed, the petitioners in CMP.No.20401 of 2023 are granted liberty to work out their remedy before the appropriate forum in the manner known to law, inasmuch as they are claiming right over the property in dispute by way of usufructory mortgage



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

WEB COPY deed alleged to have been executed by the appellants in their favour.

**D.K.K.J. & P.B.B.J.,
21.09.2023**

sd

Index : yes/no

Neutral Citation : yes/no

To

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of Land Administration,
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Collectorate Office,
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&
P.B.Balaji,J.,**



WEB COPY



W.P.No.57 of 2020
&
W.P.No.40948 of 2005

sd

**W.A.No.57 of 2020
&
W.P.No.40948 of 2005**

21.09.2023