



WEB COPY

WP No.29 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.29 of 2017

Arulmigu Marundeeswarar Thirukoil,
Represented by its Executive Officer,
East Coast Road,
Thiruvannamiyur,
Chennai-600 041.

... Petitioner

Vs.

- 1.The Additional Chief Secretary and
Commissioner of Land Administration,
Ezhilagam,
Chennai-600 005.
- 2.The Principal Commissioner and Director of
Survey and Settlement,
Ezhilagam,
Chennai-600 005.
- 3.The Settlement Officer,
Thanjavur.
- 4.The Assistant Settlement Officer,
Tiruvannamalai.



5.R.Jayaprakash

6.M.A.A.Jaleel

7.Amirtha

8.A.Francis Stephen Xavier

9.V.Rajasekaran

10.G.Rajappan

11.S.R.Venkatachalam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent which culminated in the impugned order dated 14.06.2016 bearing Ref.No.K1/15132/2011, quash the same in respect of the finding on page 7 relating to the entitlement of the petitioner for patta and direct the respondents 3 and 4 to issue Ryotwari Patta in respect of land measuring around 72 cents in Survey No.211/17, Block No.62 and 65, T.S.No.173 (part), 308 (part), 315 and 317 respectively, Thiruvanmiyur Village, in favour of the petitioner.

For Petitioner : Mr.S.Surya for
M/s.A.S.Kailasam and Associates.

For Respondents-1 to 4 : Mr.R.Ramanlaal,
Additional Advocate General
Assisted by Mr.T.Arunkumar,
Additional Government Pleader.



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For Respondents-5 to 11 : Not Ready in Notice

ORDER

The order dated 14.06.2016 passed by the Additional Chief Secretary and Commissioner of Land Administration, Chennai, is under challenge in the present writ petition.

2. The petitioner is Arulmigu Marundeeswarar Thirukoil represented by its Executive Officer. The petitioner states that one Mr.G.Radhakrishnan father of the fifth respondent Mr.R.Jayaprakash had claimed Ryotwari Patta for the land measuring 72 cents in Survey No.211/17, Thiruvanmiyur Village from the fourth respondent-Assistant Settlement Officer, who by his proceedings dated 18.03.1994 rejected the claim of Mr.G.Radhakrishnan as time barred. Mr.G.Radhakrishnan filed WP No.20901 of 1994 and this Court passed an order on 19.12.1994, directing the fourth respondent to dispose of the petition filed by the said Mr.G.Radhakrishnan on merits. Accordingly, final order was passed on



13.03.1995 granting Ryotwari Patta to Mr.G.Radhakrishnan in respect of 72 cents of land in Survey No.211/17, Thiruvanmiyur Village under Section 11(a) of the Act XXVI of 1948.

3. One Mr.M.A.A.Jaleel and five others filed a petition before the third respondent against the entry made in the S.L.R., in respect of the very same land and the said claim was rejected by the third respondent-Settlement Officer on 23.08.1994 as time barred. Mr.M.A.A.Jaleel and five others filed a Revision Petition before the second respondent-The Principal Commissioner and Director of Survey and Settlement and the said order was set aside and the matter was remanded back to the third respondent for fresh enquiry. The third respondent by order dated 01.08.1995, set aside the proceedings of the fourth respondent dated 13.03.1996 and in the process allowed Ryotwari Patta for the said land in favour of Mr.M.A.A.Jaleel and five others.

4. Challenging the said order granted in favour Mr.M.A.A.Jaleel and five others by the third respondent, Mr.G.Radhakrishnan filed a Revision Petition before the second respondent.



The second respondent by his proceedings dated 26.12.1995 set aside the order of the third respondent dated 01.08.1995 and upheld the order of the fourth respondent dated 13.03.1995.

5. Mr.M.A.A.Jaleel and five others filed a further Revision Petition before the first respondent, which was allowed by an order dated 15.06.1999 and the matter was remanded to the third respondent again for fresh enquiry.

6. The third respondent again conducted fresh enquiry on the remanded matter and confirmed the order of the fourth respondent by his proceedings dated 26.12.2000. Against the said order, a Revision Petition was filed by Mr.M.A.A.Jaleel and five others, which was dismissed by the second respondent by order dated 11.02.2008.

7. Curiously, the writ petitioner-Temple was neither shown as a party in anyone of the proceedings nor aware of the above proceedings held between the two groups of individuals. The petitioner came to know about the order of the second respondent only on 11.02.2008 and thereafter they



have initiated action to resume the subject property.

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8. The writ petitioner filed a Revision Petition before the first respondent, which was allowed, setting aside the order of the second respondent dated 11.02.2008 and remanding the matter to the second respondent for fresh enquiry. The second respondent passed an order dated 27.05.2011 confirming the order of the third respondent in and by which patta had been allowed in favour of the fifth respondent-Mr.R.Jayaprakash.

9. The first respondent had taken up suo motu review of the order of the second respondent dated 27.05.2011 and the parties had argued the matter before the first respondent elaborately. The first respondent after complete adjudication by affording opportunity to all the parties concerned, issued the impugned order, wherein claim of the fifth respondent also has been rejected. Under those circumstances, the petitioner has chosen to file the present writ petition.

10. The learned counsel for the petitioner mainly relied on the fact that the petitioner-Temple was unaware of the proceedings instituted



between the private parties. The first time they came to know about the order passed by the Authorities in the year 2008 and thereafter they have initiated proceedings for the purpose of resuming the temple properties. Suo motu revision initiated by the first respondent was not in consonance with the principles and more-so the documents provided by the petitioner were not considered. The petitioner-Temple claims that they are entitled for patta, since the temple was holding title prior to the Abolition Act XXVI of 1948.

11. However, the learned counsel for the petitioner is unable to establish that after the Abolition Act, the temple filed an application before the Competent Authorities, seeking Ryotwari Patta, within the cut off date as fixed by the Government in G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, dated 29.06.1987. In the absence of any proof to establish that the petitioner filed an application within the time limit contemplated under the Government Order, there is no scope for considering the case of the writ petitioner in view of the Abolition Act, since after the enactment, the entire land vest with the Government.

12. The learned Additional Advocate General, appearing on



behalf of the respondents 1 to 4, objected the contentions raised on behalf of the petitioner by stating that the Government in their orders in G.O.Ms.No.2303, Revenue Department, dated 01.09.1951 had notified the whole Thiruvanmiyur Village, formerly in Saidapet Taluk, Chengalpattu District and taken over on 01.10.1951 under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948. The Ryotwari Settlement in the village was introduced in the year 1960. During the Ryotwari Settlement, the abovesaid land in S.No.211/17 was registered as 'Dry-Assessed-Anadheenm'.

13. Two groups of individuals headed by one Mr.G.Radhakrishnan and Mr.M.A.A.Jaleel repeatedly filed application before the Authorities and was attempting to take away the property vested with the Government, pursuant to the Abolition Act XXVI of 1948. In none of the proceedings initiated by Mr.G.Radhakrishnan and Mr.M.A.A.Jaleel, the temple was a party and more-so the status of the property was also not adjudicated properly. Under those circumstances, finally the first respondent-Additional Chief Secretary and Commissioner of Land Administration initiated suo motu review and adjudicated the entire issues



elaborately by affording an opportunity to all the parties concerned.

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14. The order impugned dated 14.06.2016 provides history of the case elaborately. The entire factual backgrounds were considered by the Commissioner of Land Administration and the findings made therein reveals that the claim of the petitioner for the subject land, requesting for issue of patta, the Arulmigu Marundeeswarar Devasthanam had not applied for patta on or prior to 20.08.1987 as per G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, dated 29.06.1987. The Division Bench of this Court in its judgment dated 09.02.2016 in WA No.96 of 2015 has upheld the powers of the Government for fixing such limitation period. Hence the request for grant of patta for the subject land in favour of Arulmigu Marundeeswarar Devasthanam is also rejected as time barred. Several such claims of the private individuals were also rejected by the Authorities in view of the time limit fixed.

15. The subject land in Survey No.217/11, now in Block 62 and 65, T.S.No.173 (part) and T.S.No.308 (part), 315 and 317 respectively. Thiruvanmiyur Village, Velachery Taluk, Chennai District is restored as



'Punjai Anadheenam' as it was recorded during settlement, since the orders passed by the Authorities in respect of the subject land had been set aside.

Under these circumstances, the Commissioner of Land Administration directed the District Collector, Chennai to prevent any type of encroachments in the land in Block Nos.62 and 65, T.S.No.315 and 317, Thiruvanmiyur Village, Velachery Taluk, Chennai District and the Tahsildar, Velachery Taluk is also directed with suitable instructions in this regard to protect the interest of the Government over the said land forever.

16. The first respondent-Additional Chief Secretary and Commissioner of Land Administration, while considering the orders passed by the Subordinate Authorities, made a finding that the Commissioner of Survey and Settlement in his order has not considered any of the points raised in the revision petition of the temple regarding the legal validity of the sale by which the respondent's father claimed title, which has been discussed. There was no discussion nor the reasons are provided for condonation of delay beyond the limitation period fixed by the Government.

17. Admittedly, there was no direction from the Court for



granting relaxation or otherwise. Thus the Commissioner of Land Administration arrived a conclusion that Thiru Subbaraya Chettiyar derived his title only as Trustee of the temple and did not have any legal right to make a private sale to the respondent's father or to anyone else without the permission of the Board. Accordingly, the impugned order of the Commissioner of Survey and Settlement granting patta to the respondent was set aside. The vendor had no valid right to sell the property to the respondent's father and therefore, the earlier orders passed by the Assistant Settlement Officer and the Settlement Officer granting patta were also set aside.

18. The factual matrix as established in the present case would expressly reveal that two group of persons made an attempt to secure patta of the land vested with the Government by virtue of Abolition Act XXVI of 1948. The parties could secure some orders from the Settlement Officer and the Assistant Settlement Officer and from the Director of Survey and Settlement one way or the other and repeatedly the matters were remanded back and orders were obtained without considering the facts and circumstances in entirety. Finally, the Additional Chief Secretary and



Commissioner of Land Administration initiated suo motu review and elaborately considered the history of the case and set aside all the earlier orders passed by the Assistant Settlement Officer, Settlement Officer and the Director of Survey and Settlement.

19. The Commissioner of Land Administration has rightly found that the lands vested with the Government and accordingly directed the District Collector, Chennai and the Tahsildar, Velachery Taluk to protect the Government land forever. The petitioner is unable to establish that they have submitted any application within the cut off date as fixed by the Government in G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, dated 29.06.1987 and therefore, now after a lapse of many years, the temple cannot claim any right over the property and thus this Court is not inclined to consider the relief as such sought for in the present writ petition.

20. The learned Additional Advocate General appearing on behalf of the respondents 1 to 4, filed Status Report stating that the subject land is with the possession of the Government.



21. This being the factum, the respondents 1 and 2 are directed to ascertain the possession of the subject land with the Government and take necessary steps to fence the property. Since the subject land is falling within the Chennai City Area, further actions are directed to be initiated to prevent any encroachment or otherwise and utilise the property for the welfare of the public at large. In this regard, the first respondent is directed to file Compliance Report before this Court on or before 20.09.2023.

22. With the above directions, the present writ petition stands dismissed. However, there shall be no order as to costs.

The Registry is directed to post this matter before this Court under the caption 'For Reporting Compliance' on 20.09.2023.

01-09-2023

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

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Commissioner of Land Administration,
Ezhilagam,
Chennai-600 005.

2. The Principal Commissioner and Director of
Survey and Settlement,
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3. The Settlement Officer,
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S.M.SUBRAMANIAM, J.

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