



W.P(MD)Nos.81 of 2023 etc. batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.81 of 2023

and

W.P.(MD)Nos.12322, 14701 & 28040 of 2022

and

W.M.P.(MD)Nos.91, 93, 97 & 960 of 2023

and

W.M.P.(MD)Nos.10493, 10494, 22118, 22120, 8752, 8754, 8757

& 8763 of 2022

In W.P.(MD)No.81 of 2023

1.Masilamani

2.J.Gokul Anand

... Petitioners

Vs.

1.The Director,
Land Survey and Land Tax Plan Department,
Survey Illam, Chepauk,
Chennai-5.

2.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai-5.

3.The Assistant Director,
Land Survey Records Department,



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Dindigul.

4.The District Revenue Officer,
Dindigul.

5.The Revenue Divisional Officer,
Dindigul.

6.The Tahsildar,
Dindigul West,
Dindigul District.

7.P.Karuppiah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent dated 28.12.2022 in proceedings Na.Ka.No.25841/2022(Ne.A), quash the same as the same is arbitrary, ultravires, contrary to the order dated 13.12.2022 made in W.P.No.28040 of 2022.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R1 to R6

: Mr.T.Lajapathi Roy
Senior Counsel
for Mr.K.Rajeswaran for R7

In W.P.(MD)No.14701 of 2022

1.Masilamani

2.J.Gokul Anand

... Petitioners

Vs.



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- 1.The District Revenue Officer,
(Personal Assistant General)
Dindigul.
- 2.The Revenue Divisional Officer,
Dindigul.
- 3.The Tahsildar,
Dindigul West,
Dindigul District.
- 4.Karuppiah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent dated 27.06.2022 in proceedings Na.Ka.No.7858/2022/C4, quash the same as the same is arbitrary, ultravires, in excess of power, jurisdiction.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.G.Suriyananth
Additional Government Pleader for R1 to R3

: Mr.T.Lajapathi Roy
Senior Counsel
for Mr.K.Rajeswaran for R4

In W.P.(MD)No.28040 of 2022

1.Masilamani

2.J.Gokul Anand

... Petitioners

Vs.



W.P(MD)Nos.81 of 2023 etc. batch

1. The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai.

2. The District Revenue Officer,
Dindigul.

3. The Revenue Divisional Officer,
Dindigul.

4. The Tahsildar,
Dindigul West,
Dindigul District.

5. Karuppiah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to forbear the respondents 1 to 4 from implementing the order dated 11.05.2022 made in Na.Ka.No. 4505/2021/B4, passed by the third respondent at the instigation/instance of the fifth respondent which is the subject matter in issue in the title suit in O.S.No. 265/2022 on the file of the Additional District Court, Dindigul on the basis of the petitioner's representation dated 28.11.2022.

For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.A.K.Manikkam
Additional Government Pleader for R1 to R4

: Mr.T.Lajapathi Roy
Senior Counsel
for Mr.K.Rajeswaran for R5



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In W.P.(MD)No.12322 of 2022

1.Masilamani

2.J.Gokul Anand

Vs.

... Petitioners

1.The District Revenue Officer,
Dindigul.

2.The Revenue Divisional Officer,
Dindigul.

3.The Tahsildar,
Dindigul West,
Dindigul District.

4.The Special Tahsildar,
(Land Acquisition)
Dindigul.

5.The Head Surveyor,
Dindigul District.

6.Karuppiah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the second respondent dated 11.05.2022 in proceedings Na.Ka.No.4505/2021/ஆ4, quash the same as the same is arbitrary, ultravires, in colorable exercise of power, contrary to the provisions of patta passbook act in excess of power.



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For Petitioner : Mr.R.G.Shankar Ganesh

For Respondents : Mr.A.K.Manikkam
Additional Government Pleader for R1 to R5

: Mr.T.Lajapathi Roy
Senior Counsel
for Mr.K.Rajeswaran for R6

COMMON ORDER

The writ petitions are four in number. The petitioners however are one and the same. The second petitioner J.Gokul Anand has taken the petition mentioned property on lease from the first petitioner. He is presently running a petroleum retail outlet. To obtain license for running such outlet, one has to get No Objection Certificate from the jurisdictional District Revenue Officer. In this case, such No Objection Certificate was obtained on 13.08.2020. The District Revenue Officer has issued the notice dated 27.06.2022 calling upon the petitioners to show cause as to why No Objection Certificate should not be cancelled. Challenging the said show cause notice, W.P.(MD)No.14701 of 2022 came to be filed. The contesting private respondent Thiru.P.Karuppiah alleges that the writ petitioners have committed encroachment both on Government lands as well as the land owned by him to the extent of 20 cents



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(11+9). The petition given by the private respondent was enquired into and the jurisdictional Revenue Divisional Officer, Dindigul passed an order dated 11.05.2022 cancelling patta issued in favour of the first petitioner. Questioning the same, W.P.(MD)No.12322 of 2022 came to be filed. The Commissioner of Land Surveyor & Settlement had issued instructions for enforcing the order passed by the jurisdictional Revenue Divisional Officer. Hence, W.P.(MD)No. 28040 of 2022 came to be filed.

2. The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of these writ petitions and called upon this Court to interfere in the matter and grant relief as prayed for.

3. His primary grievances are two fold. He pointed out that the revenue authorities have virtually embarked upon enquiry into the rival claim of title which they are not competent to do. He also pointed out that the petitioners have subsequently filed O.S.No.265 of 2022 on the file of the Sub Court, Dindigul seeking the relief of declaration and permanent injunction. He drew my attention to the fact that an interim injunction has been granted in the civil suit after contest. In these circumstances, the impugned order will have to be put on hold and the parties will have to be directed to await out come of



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O.S.No.265 of 2022.

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4. The learned Special Government Pleader as well as the learned Senior Counsel appearing for the private respondent submitted that no relief deserves to be granted in any of the writ petitions.

5. I carefully considered the rival contentions and went through the materials on record.

6. In normal circumstances, pendency of a declaration suit is sufficient to stall any attempt on the part of the revenue authority to conduct enquiry. But in the case on hand, the suit itself came to be filed not only after passing of the order by the jurisdictional Revenue Divisional Officer but only after grant of interim order passed by this Court in W.P.(MD)No.14701 of 2023.

7. I wanted to know the extent of the land purchased by the first petitioner Thiru.Masilamani. The learned counsel appearing for the writ petitioners categorically admitted that the first petitioner purchased only 41 cents of land vide sale deed dated 22.01.2014 from one Ganesan. Since such a categorical admission has been made before me, the petitioners herein cannot



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make any claim for any land beyond the said extent.

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8. The learned counsel appearing for the petitioners also would claim that during UDR, some errors had crept in and on the strength of such erroneous entries in the UDR record, the Revenue Divisional Officer had passed the order dated 11.05.2022. It is also not in dispute that the District Revenue Officer is empowered to cancel No Objection Certificate, if the circumstances set out in Rule 150 of the Petroleum Rules, 2002 are fulfilled.

9. In the light of the aforesaid admitted facts, these writ petitions are disposed of in the following terms:-

(I) The first petitioner Masilamani is given liberty to file a fresh petition before the District Revenue Officer, Dindigul for correcting what according to him are the UDR errors. It is well known that there is no limitation for filing such a petition and the District Revenue Officer is the competent authority to correct UDR errors. The first petitioner is given two weeks to file such a petition before the jurisdictional District Revenue Officer, Dindigul from the date of receipt of a copy of this order. On such filing, the District Revenue Officer shall issue notice to



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the interested parties and pass final order on merits and in accordance with law within a period of three months thereafter.

(II) Since the petitioners have suffered an order at the hands of the Revenue Divisional Officer, Dindigul, they are permitted to file an appeal within a period of two weeks from the date of receipt of the copy of the order. If such an appeal is filed, the same will be entertained without reference to limitation. The petition which the first petitioner has been permitted to file for correcting UDR and the appeal to be filed by the first petitioner against the Revenue Divisional Officer's order will be considered together by the District Revenue Officer, Dindigul and a common order shall be passed.

(III) The notice issued by the District Revenue Officer for cancelling No Objection Certificate shall be put on hold. Based on the outcome of the petition / appeal to be filed by the petitioners herein as mentioned above, the proceedings to be taken under Rule 150 of the Petroleum Rules will abide.

(IV) The jurisdictional Tahsildar is directed to conduct survey. Notice will be given to both the parties. To pass an effective order, the District Revenue Officer shall undertake survey exercise. Since the



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petitioners herein have categorically stated that they have claim only on 41 cents of land, the same will be duly identified and earmarked. Both the parties are directed to extend their fullest cooperation for concluding the survey exercise.

(V) The learned First Additional Judge, Dindigul is directed to dispose of O.S.No.265 of 2022 on merits and in accordance with law within a period of twelve months. The order passed by the Commissioner of Land Surveyor and Settlement, Chepauk, Chennai as well as the impugned order passed by the jurisdictional Revenue Divisional Officer shall be kept in abeyance and they shall abide by the order to be passed by the District Revenue Officer, Dindigul.

I make it clear that I have not gone into the merits of the matter. All the contentions of the respective parties are left open.

10. The Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.02.2023

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Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

- 1.The Director,
Land Survey and Land Tax Plan Department,
Survey Illam, Chepauk,
Chennai-5.
- 2.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai-5.
- 3.The Assistant Director,
Land Survey Records Department,
Dindigul.
- 4.The District Revenue Officer,
Dindigul.
- 5.The Revenue Divisional Officer,
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- 6.The Tahsildar,
Dindigul West,
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