



W.P.(MD)No.5016 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.5016 of 2010

and

M.P.(MD)Nos.1 to 4 of 2010 and 1 to 4 of 2011

Tea Estates India Limited,
Rep. by its Authorised Signatory,
S.Govindarajan,
Highways Post,
Theni District – 625 519.

... Petitioner

versus

1. The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.
2. The District Collector,
Theni District,
Theni – 625 531.
3. P.Muthuveeran, I.A.S.
The District Collector,
Theni District,
Theni – 625 531.



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4. The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam – 625 533.
5. The Secretary to Government,
Environment, Climate Change and
Forests Department,
Government of Tamil Nadu,
Fort St. George, Chennai.
6. The Director,
Directorate of Survey and Settlement,
Survey House, PWD Estate,
Chepauk,
Chennai.
7. The Deputy Director,
Megamalai Division (Srivilliputhur),
Megamalai Tiger Reserve,
Theni.
(R5 to R7 are suo motu impleaded vide
order dated 07.03.2023 in W.P.(MD)No.
5016 of 2010)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari to call for records of the respondents culminating the impugned notices dated 27.01.2010 and 09.04.2010 issued by the fourth respondent and all further proceedings thereunder and quash the same.



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For Petitioner : Mr.J.Sivanandharaj,
Senior Counsel
for M/s.Venkata Subramanian

For R1, R2,
R4 to R7 : Mr.Veera Kathiravan,
Additional Advocate General
assisted by Mr.Mr.S.Shaji Bino,
Special Government Pleader

For R3 : Given up
Advocate

Commissioners : Mr.N.Dilip Kumar
Mr.Arunachalam @ Arun
Mr.M.Rajarajan

ORDER

The petitioner Company was originally functioning under the name and style of “Madras Tea Estate Limited” and it was allotted with 10619.73 acres of land at Megamalai in the year 1931 by the British regime. After the enactment of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, the petitioner had surrendered 6389.42 acres to the Government and had also surrendered 191.20 acres of land for a Hydro-Power Project. Now, the petitioner is holding 3807.85 acres of land. While so, the 4th respondent/the Thasildar, Uthamapalayam, has issued a notice dated 27.01.2020 under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 alleging that the



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petitioner Company has encroached upon certain lands including the forest lands. Aggrieved over the same, the petitioner is before this Court.

2. The main contention of the petitioner is that the District Collector, Theni District, has requested for some lands for developing tourism in Megamalai and the petitioner Company has refused to surrender any further land. Therefore, the District Collector, Theni District, has instructed the Thasildar, Uthamapalayam, to issue this impugned notice.

3. The petitioner has also taken a plea that it is a vast extent of 3807.85 acres and since it is a hill area, it cannot be measured within a stipulated time. However, the 4th respondent, without any measurement, has issued the impugned notice. On this specific plea taken by the petitioner, a consent order was passed by this Court on 13.04.2010 directing the respondents to survey the entire land in the



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presence of the petitioner. In order to ensure the transparency in survey, this Court has also appointed three advocates practicing before this Bench as Advocate Commissioners to monitor the survey. Pursuant to this order, survey was conducted for a period of one week and thereafter, all the parties to this writ petition have conveniently slept over the issue and this writ petition was also kept pending for more than ten years.

4. When this writ petition was again listed for hearing before this Court on 17.03.2023, this Court has taken serious note of the manner in which all the parties to this writ petition have not proceeded with further and issued various directions to the respondents. Pursuant to the directions of this Court, the Director of Survey and Settlement constituted a special team to conduct a measurement of lands as directed by this Court on 13.04.2010.

5. The learned Additional Advocate General has also filed a



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interim report stating that they have almost completed the measurement and they need one more month to complete the entire process. It is also stated by both the learned Additional Advocate General and the learned Senior Counsel appearing for the petitioner that the petitioner Company is also participating in the survey and extending their help by cleaning the bushes, enabling the Survey Department to conduct the survey in an accurate manner. It is also reported that advanced technologies are adopted by the Survey Department to ensure the accurate measurement.

6. It appears that both the parties are not having any grievance with regard to the survey conducted by the Survey Department at Megamalai. Since this Court has considered the plea of the petitioner that there was no proper measurement prior to the issuance of earlier notice under Section 7 of the Tamil Nadu Land Encroachment Act, 1905 and survey has also been directed to be conducted in the presence of the petitioner, this Court deems it fit to set aside the impugned



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notices issued by the 4th respondent/the Thasildar, Uthamapalayam on 27.01.2010 and 09.04.2010. Accordingly, this writ petition is allowed by setting aside the impugned notices dated 27.01.2010 and 09.04.2010 issued by the 4th respondent.

7. Considering the manner in which the writ petition, which was filed in the year 2010, is kept pending without any adjudication and response from the officials and the petitioner, this Court deems it fit to issue the following directions to both the parties:

(i) The survey has to be completed within a period of two months from the date of receipt of a copy of this order and a copy of the survey report has to be filed before this Court on or before 29.09.2023.

(ii) The further course of action, if any required as per the survey report, has to be taken by the concerned authority, without any delay within a period of four weeks from the date of receipt of the survey report. The District Collector, Theni District, is expected to monitor the same.



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(iii) If any further course of action was taken by the concerned authority, necessary opportunity shall be provided to the petitioner and the petitioner is expected to co-operate for the enquiry by filing their response, if any, within a reasonable time.

(iv) Till the conclusion of the survey and enquiry, if any, the Officers concerned shall not be disturbed from their post without obtaining necessary orders from this Court.

8. Post the matter on 29.09.2023 for reporting compliance. No costs. Consequently, connected miscellaneous petitions are closed.

28.06.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

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B.PUGALENDHI, J.

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