



W.P(MD)No.8670 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.8670 of 2012 and
M.P(MD) No.1 of 2012

Nepoleon

...Petitioner

Vs.

1.The Commissioner of Land Administration,
Chepauk,
Chennai – 5.

2.The Assistant Settlement Officer (North),
Chepauk,
Chennai -5.

3.The Deputy Tahsildar,
Thanjavur Taluk,
Thanjavur.

4.Y.Victor (Died)

5.D.V.Mercy

6.Karolin

7.Arul Yagappa

8.Mariya Durai Raj

...Respondents

(R5 to R8 are impleaded vide Court order dated 27.01.2023 in WMP(MD) No. 22811/2022 in WP(MD) No.8670/2012by KBJ)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 31.05.2012 in Rc.K1/5602/2012 passed by the first respondent herein and quash the same and consequently direct the respondents herein to include the name of the petitioner as owner in the Revenue Records and grant patta for an extent of 40 cents in Old S.No.435, New S.No.3089 in T.S.No.21, Ward No.4, Block No.61 in Thanjavur Taluk, Thanjavur District.

For Petitioner	: Mr.A.Lakshmisankar for Mr.G.Mohankumar
For R1 to R3	: Mr.Veerakathiran Additional Advocate General Assisted by Mr.S.Shaji Bino Special Government Pleader
For R5 to R8	:No appearance

ORDER

This Writ Petition is filed as against the orders passed by the Commissioner of Land Administration in proceedings in Rc.K1/5602/2012, dated 31.05.2012.



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2.The case of the petitioner is that the land in S.No.435 and New T.S.No.3089 in T.S.No.21 Ward No.4, Block No.61, having an extent of 40 cents in Thanjavur Town, originally belonged to Thanjavur Palace Estate. Under interim final decree dated 16.09.1925, the same was entrusted by the Estate Receiver to one Vimala Nantha Jee Sahib on 05.12.1925. Thereafter, under registered sale deed dated 08.06.1931, 6.60 acres in S.No.434/2 and 40 cents in S.No.435 were sold to Mr.A.Ponnusamy Nadar, who is the great grandfather of the petitioner. The said Ponnusamy Nadar donated a portion of the land for the establishment of a Medical College in Thanjavur. He has also donated 6.60 acres in S.No.434/2 for the construction of a Collector Bungalow in Thanjavur. The said Ponnusamy Nadar died leaving behind his daughter Arulanantha Ammal and the said Arulnanantha Ammal had executed a Will in favour of her son, namely Xavier, the father of the petitioner for the land in Survey No.435 to an extent of 40 cents. The said Xavier executed a Will in favour of the petitioner for the above property on 01.05.1982. According to the petitioner, during the settlement



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proceedings the subject land was classified as 'Anatheenam', which means not claimed by any person. On coming to know that the land has been classified as 'Anatheenam' in the year 2011, the petitioner has approached the Assistant Settlement Officer, Chennai to include the petitioner's name in the Revenue Records by deleting the classification, which was made as 'Anatheenam'. Though the Assistant Settlement Officer, Chennai has initially rejected the request of the petitioner, on the order passed by this Court in W.P.No.28700 of 2011, dated 21.12.2011, the second respondent/the Assistant Settlement Officer has passed an order in favour of the petitioner, directing the Tahsildar to grant patta in favour of the petitioner. As against that order, the fourth respondent/the petitioner's cousin, claiming right over the same property filed a revision before the first respondent/the Commissioner of Land Administration. The first respondent has exercised his *suo motu* powers and passed the order impugned in this writ petition.



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3.Today(23.06.2023), when this writ petition is taken up for hearing, the learned counsel appearing for the petitioner after arguing for a while submits that the legal heirs of the fourth respondent has filed a suit in O.S.No.172 of 2022 as against the petitioner, before the Additional District Court, Thanjavur for the relief of declaration and for permanent injunction.

4.The learned Additional Advocate General appearing for the respondents by relying upon the detailed counter affidavit filed by the first respondent submits that the revision petition filed by one Victor/the fourth respondent was taken up for *suo motu* review by the first respondent under Section 7(c) of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948 and a show cause notice was issued to the petitioner and after careful consideration and examination of the available records, the first respondent, by his order dated 31.05.2012 has set aside the proceedings of the Assistant Settlement Officer, who had granted ryotwari patta for the subject land in favour of the petitioner. The



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petitioner failed to prove his rights over the subject property before the first respondent at the time of enquiry conducted under Section 7(c) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948. Moreover, the petitioner himself agreed that the lands had been registered as Anadeenam prior to 64 years and it means no one claimed for patta ever after the introduction of the settlement and also within the appeal time.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner claims that the land in Survey No.435 to an extent of 40 cents in Thanjavur Town is his ancestral property. On 01.05.1982, the petitioner's father, namely, Xavier has executed a Will in favour of the petitioner for the above property. During the settlement proceedings, the land was classified as 'Anatheenam', which means not claimed by any person. On coming to know that fact, the petitioner has approached the Assistant Settlement Officer,



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Chennai and obtained an order in favour of him. Challenging the same, the fourth respondent/the petitioner's cousin has filed a revision and the first respondent by exercising his *suo motu* powers passed the order, which is impugned in this writ petition. The claim of the petitioner was opposed by the respondents on the ground of limitation. It is brought to the notice of this Court that on the subject property, the legal heirs of the fourth respondent has filed a suit in O.S.No.172 of 2022 as against the petitioner, before the Additional District Court, Thanjavur for the relief of declaration and for permanent injunction.

7.Considering the fact that a civil suit has been instituted by the legal heirs of the fourth respondent, this writ petition is disposed of with a liberty to the petitioner to work out his remedy in the suit in O.S.No.172 of 2022, which is pending before the Additional District Court, Thanjavur, by filing a counter claim. Considering the pendency of this writ petition, the trial Court shall endeavour to decide the issue independently and uninfluenced by the



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order of the Commissioner of Land Administration and conclude the trial as expeditiously as possible. No Costs. Consequently, connected Miscellaneous petition is closed.

23.06.2023

Index:Yes
Internet:Yes
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To

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B.PUGALENDHI, J.

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W.P(MD)No.8670 of 2012 and
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