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W.P.(MD)Nos.9221 and 10654 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.9221 and 10654 of 2021

and

W.M.P.(MD)No.6952 of 2021 and

W.M.P.(MD)Nos.8300 and 8301 of 2021

W.P.(MD)No.9221 of 2021

A.Rajakutty

... Petitioner

Vs.

1.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

2.The Executive Officer,
C-Pudupatti Town Panchayat,
Uthamapalayam Taluk,
Theni District.

3.Cumbum Puduptti Farmers Association,
Represented by its President
(Registration No.111/2017)
C.Pudupatti, Uthamapalayam Taluk,
Theni District.

(R3 is impleaded vide Court
Order dated 16.02.2022)

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.3416/2019/A5 dated 19.04.2021 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioners : Mr.B.Saravanan
Senior Counsel
for Mr.D.Kirubakaran

For R1 and R2 : Mr.Veerakathiravan,
Additional Advocate General
assisted by
Mr.M.Lingadurai
Special Government Pleader

For R3 : Mr.K.Hemakarthiskeyan

W.P.(MD)No.10654 of 2021

P.Muniyandi

... Petitioner

Vs.

- 1.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.
- 2.The Executive Officer,
C-Pudupatti Town Panchayat,
Uthamapalayam Taluk,
Theni District.



3.Cumbum Pudupatti Farmers Association,
Represented by its President
(Registration No.111/2017)
C.Pudupatti, Uthamapalayam Taluk,
Theni District.

*(R3 is impleaded vide Court
Order dated 15.07.2021)*

4.P.Ayyavu
*(R4 is impleaded vide Court
order dated 20.02.2023)*

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.3416/2019/A5 dated 19.04.2021 and to quash the same as illegal, arbitrary and in violation of principles of natural justice

For Petitioners : Mr.B.Saravanan
Senior Counsel
for Mr.D.Kirubakaran

For R1 and R2 : Mr.Veerakathiravan,
Additional Advocate General
assisted by
Mr.M.Lingadurai
Special Government Pleader

For R3 : Mr.K.Hemakarthikeyan

For R4 : Mr.K.Neelamegam

**COMMON ORDER**

WEB COPY Heard the learned senior counsel appearing for the writ petitioner and the learned Additional Advocate General appearing for the official respondents.

2.The petitioners were granted 2(c) pattas for the petition mentioned tamarind trees. They were cancelled without notice. Challenging the same, petitions were filed and this Court set aside the cancellation orders on the ground of violation of principles of natural justice. However, liberty was given to the respondents to pass orders afresh after issuing notice. Availing the liberty granted vide order dated 20.01.2021, made in W.P.(MD)No.3576 of 2020 etc., the impugned orders came to be passed.

3.The respondents have clarified that there is no proposal to fell the petition mentioned trees. However, there is proposal to auction them. The jurisdictional Tahsildar has however made it clear that the petitioners cannot continue to enjoy 2(c) pata. In this view of the matter, the pattas standing in the name of the petitioners were cancelled. Challenging the same, the present writ petitions came to be filed.



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4.The learned Senior Counsel appearing for the petitioners took me through the averments set out in the affidavit filed in support of the petitions. He pointed out that the reason originally assigned by the respondents was that they proposed to desilt the water body and since the petition mentioned trees are posing obstruction, they wanted to fell the same and that is why they wanted to cancel the 2(c) pattas standing in the name of the petitioners. Since the second respondent has made it clear that the trees will be allowed to stand and that the desilting operation will be independently carried out, the very reason for which the proceedings were originally initiated has been totally undermined. He made it clear that the petitioners will not come in the way of desilting operation. He therefore called upon this Court to set aside the impugned orders. He has also pointed out that the trees were originally planted by their family and that they should be allowed to enjoy the usufructs.

5.Though the basic contention advanced by the learned Senior Counsel appearing for the petitioners is well founded, I am not able to intervene for the simple reason that the petitioners have no right to insist that the 2(c) pattas granted in their favour should be kept alive forever.



In the very nature of things, such a patta is highly tentative in nature and that it does not confer any substantial right as such. The only right given to the 2(c) pattathars is to enjoy the usufructs. This right cannot be claimed in perpetuity. It has been demonstrated that the petition mentioned trees are standing on a waterbody known as Idaiyankulam. In these circumstances, this Court will not be justified in interfering with the impugned orders. The only reason as to why I am unable to grant relief to the petitioners is that the petitioners have no right as such to demand that the 2(c) pattas should continue to be in their names for all times. All the orders impugned in these writ petitions are sustained and these Writ Petitions are dismissed.

6. At this stage, the learned Senior Counsel appearing for the petitioners states that the petitioners accept the order passed by this Court and that they would not challenge the impugned orders by taking the matter to the Hon'ble Division Bench by way of Writ Appeal. Since I am satisfied that the trees were originally planted by the petitioners' family, the petitioners are allowed to enjoy the usufructs of the petition mentioned trees up to 31.05.2023. However, even during this period, the respondents can carry on their desilting operations. The fact that the



petitioners have been allowed to enjoy the usufructs till, 31.05.2023, will not come in the way of desilting operation. I make it clear that the trees shall not be felled for any reason what so ever. The right of the petitioners to enjoy the usufructs will come to an end positively by 31.05.2023.

7. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

20.02.2023

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

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To

- 1.The Tahsildar, Uthamapalayam Taluk, Uthamapalayam,
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- 2.The Executive Officer, C-Pudupatti Town Panchayat,
Uthamapalayam Taluk, Theni District.
- 3.Cumbum Pudupatti Farmers Association,
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G.R.SWAMINATHAN,J.

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