



1

W.P.(MD)NO.9150 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9150 of 2023 AND
W.M.P.(MD)Nos.8272, 8273 & 8275 of 2023

1. N.Paramasivam
2. M.Rajakumar
3. M.Ramkumar
4. S.R.Kumar
5. S.R.Sekar
- 6.S.R.Kishore
7. Manikandarajan
8. Manikandakumar
9. G.Rajesh ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner of Land Administration,
Chepauk,
Chennai – 600 005.
3. The District Collector,
Nagercoil, Kanyakumari District.



4. The District Revenue Officer,
Nagercoil,
Kanyakumari District.

5. The Tahsildar,
Thovalai Taluk,
Boothapandi & Post,
Kanyakumari District.

6. The Revenue Inspector,
Azhagiapandipuram Post,
Kanyakumari District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the impugned proceedings of the 1st respondent in G.O.Ms. No.113 Revenue and Disaster Management Department, Land Disposal Wing dated 08.03.2023, quash the same and direct the respondents to not to interfere with the petitioner's possession of 88 acres of land comprised in Survey Nos.426, 427, 428, 429, 430 and 431, Arumainallur Village, Thovalai Taluk, Kanyakumari District.

For Petitioner : Mr.T.Arul

For Respondents: Mr.J.Ravindran,
Additional Advocate General,
assisted by,
Mr.S.Ra.Ramachandran,
Additional Government Pleader.

* * *



WEB COPY



ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents.

2. The case of the petitioners is that their forefathers were in possession and enjoyment of the petition-mentioned lands under the various tenancy arrangements that were applicable to the erstwhile Maharaja of Travancore Region. Following the said re-organisation, the Government of Tamil Nadu issued G.O.Ms.No.947 dated 02.03.1973. When the authorities sought to resume possession of the lands in question, the interested persons including some of the petitioners herein filed W.P.No.11495 of 1998. The said writ petition was dismissed vide order dated 15.11.2001. Questioning the same, W.A.No.1349 of 2002 was filed. The Hon'ble First Bench granted interim injunction on 30.07.2002 and the appeal itself eventually came to be dismissed on 10.11.2009. While so, dismissing the said writ petition, liberty was given to the appellants therein to question G.O.Ms.No.377



dated 13.05.1993 whereby the request for issuance of patta was negatived. Availing such liberty, W.P.No.26808 of 2009 was filed. The said writ petition was disposed of on 21.02.2022 in the following terms:-

“ 6. The facts in the present case are not in dispute. The grievance of the petitioners is that the petitioners are rich pattadars and they were granted land under the Kuthagapattam and Kandukrishipattam systems in the erstwhile Trivancore Cochin Government. For resumption of land, procedures have to be followed as per G.O.Ms.No.947 dated 02.03.1973, more particularly as per Clauses 5 and 6 of the said G.O and hence, they cannot be termed as “encroachers” through impugned G.O.Rt.No.377 dated 13.05.1993. Further the disputed land is required for public purpose i.e, Bio- Diversity and Agricultural Extension Centre. Hence, this Court is inclined to grant liberty to the 1st respondent to resume the land in terms of G.O.Ms.No.947 dated 02.03.1973 as per clauses



WEB COPY



5 and 6 therein and the petitioners are directed to surrender the land to the Government and enable the Government to resume the land under the above said G.O for formation of Bio-Diversity and Agricultural Extension Centre. The said exercise to be completed within a period of 12 weeks from the date of receipt of a copy of this order.”

3. In terms of the said direction given by this Court, the Government of Tamil Nadu issued G.O.Ms.No.113 Revenue and Disaster Management Department, Land Disposal Wing, LD3(2) Section dated 08.03.2023 directing the District Collector, Kanyakumari to resume the lands immediately. The Government rejected the claim of the possessors for patta. Challenging the said Government Order, the present writ petition came to be filed.

4. The primary contention of the learned counsel appearing for the petitioners is that the impugned Government Order is not in consonance with the order passed by this Court on 21.02.2022 in W.P.No.26808 of 2009. He was at pains to point out that this Court categorically held that the



petitioners cannot be treated as encroachers. In the impugned Government Order, they have been once again characterised and labelled as persons in unauthorised occupation. The learned counsel repeatedly contended that the petitioners can be shown the door only in terms of G.O.Ms.No.947 dated 02.03.1973 and not otherwise. He drew my attention to the undertaking given before this Court in W.P.(MD)No.8190 of 2022. He called upon this Court to quash the impugned Government Order and grant relief as prayed for.

5. I am not persuaded by the submission of the learned counsel appearing for the petitioner. As rightly contended by the learned Additional Advocate General for the respondents, G.O.Ms.No.947 dated 02.03.1973 has not really conferred any special status on the occupants of the petition-mentioned lands. Paragraph Nos.5 and 6 of the said Government Order read as follows:-

“5. The collectors of Kanyakumari and Tirunelveli and the Board of Revenue are informed that separate orders will issue on the question of resumption of the lands under Kuthakapattom which cannot be assigned to



WEB COPY



occupiers under the above instructions.

6. These orders shall apply only to the disposal of lands governed by the rules for Kuthakapattom and Kandukrishi Thanathu and Kandukrishi Pattom lands. Encroachments on Government lands will be regularised only under the provisions of the Board's standing orders applicable in the State.”

6. The petitioners are admittedly paying 'B' memo charges from 1973 onwards. A person who paying 'B' memo charges should occupy the land only on the severance of state. It is true that in W.P.No.26808 of 2009, a learned Judge of this Court observed that the petitioners cannot be treated as encroachers. But on a careful reading of the said order, I come to the conclusion that the direction given in the said order does not really advance the case of the petitioners. Paragraph No.6 of the said order dated 21.02.2022 states that the authorities can resume the lands in terms of G.O.Ms.No.947 dated 02.03.1973 and the petitioners were directed to surrender the land to the Government and enable the Government to resume the land under the aforesaid



Government Order for formation of Bio-Diversity and Agricultural Extension Centre. The petitioners do not have an iota of title over the land in question. It is true that they have been in possession for a very long period of time. Therefore, even while sustaining the impugned proceedings, the petitioners are granted five months time from today to vacate. If at the end of the five months period from today, the petitioners fail to vacate, it is open to the respondents herein to take possession of the lands without any further notice. This writ petition stands dismissed with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

20.12.2023

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

PMU



WEB COPY



To:

1. The State of Tamil Nadu,
Rep. By Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Fort St. George,
Chennai – 600 009.
2. The Commissioner of Land Administration,
Chepauk,
Chennai – 600 005.
3. The District Collector,
Nagercoil, Kanyakumari District.
4. The District Revenue Officer,
Nagercoil,
Kanyakumari District.
5. The Tahsildar,
Thovalai Taluk,
Boothapandi & Post,
Kanyakumari District.
6. The Revenue Inspector,
Azhagiapandipuram Post,
Kanyakumari District.



WEB COPY



10

W.P.(MD)NO.9150 OF 2023

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.9150 of 2023

20.12.2023