



W.P(MD)Nos.16493 of 2020 & 10697 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2023

CORAM

THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)Nos.16493 of 2020 & 10697 of 2021

and

W.M.P(MD)Nos.13788 of 2020 and 8321 & 8322 of 2021

(In W.P(MD)No.16493 of 2020)

L.Nachiappan

... Petitioner

Vs.

1.The District Collector,  
Sivagangai District,  
Sivagangai.

2.The Tahsildar,  
Karaikudi Taluk,  
Sivagangai District.

3.Mela Veeranjatti Urani Karpaga Vinayagar Kovil Trust,  
Represented by its Trustee R.M.Kannan,  
Mela Urani Road,  
Karaikudi,  
Sivagangai District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus, calling for the records of second respondent relating to the order, dated 08.10.2020, made in OMU/A6/5528/2020 and quash the same and further direct the second respondent to sub divide the lands in Survey No.65 situated in Kalanivasal Village, Karaikudi Taluk, Sivagangai District and issue Sub division and



W.P(MD)Nos.16493 of 2020 & 10697 of 2021

transfer of patta to the petitioner in respect of lands measuring to an extent of 2.19 acres in Survey No.65 situated in Kalanivasal Village as per the family partition deed registered as Document No.3300/2020, dated 08.06.2020.

For Petitioner : Mr.K.Saravanan  
for Mr.Muthumani Doraisami

For R-1 & R-2 : Mr.G.Suriyananth  
Additional Government Pleader

For R-3 : Mr.H.Arumugam

(In W.P(MD)No.10697 of 2021)

Mela Veeranjatti Urani Karpaga Vinayagar Kovil Trust,  
Represented by its Trustee, R.M.Kannan,  
Mela Urani Road, Karaikudi,  
Sivagangai.

... Petitioner

Vs.

1.The Commissioner of Survey and Settlement,  
Chepauk, Chennai.

2.The District Collector,  
Sivagangai District,  
Sivagangai.

3.The Revenue Divisional Officer,  
Devakottai,  
Sivagangai.

4.The Tahsildar,  
Karaikudi Taluk,  
Sivagangai.

5.L.Nachiappan  
6.S.Marikadevi

... Respondents



**W.P(MD)Nos.16493 of 2020 & 10697 of 2021**

*(Respondent No.6 is impleaded vide Court order, dated 04.01.2023, in W.M.P(MD)No.10949 of 2022 in W.P(MD)No.10697 of 2021)*

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certioari, to call for the records relating to the impugned order of the first respondent in Rc.G2/4570/2020, dated 28.05.2021 and quash the same.

For Petitioner : Mr.H.Arumugam

For R-1 to R-4 : Mr.G.Suriyananth  
Additional Government Pleader

For R-5 : Mr.K.Saravanan  
for Mr.Muthumani Doraisami

For R-6 : Mrs.T.Kokilavani

### **COMMON ORDER**

Heard the learned Counsel on either side.

2. The writ petitioner (Thiru.L.Nachiappan) claims title over 10 acres of land in old S.No.65/1 in Kalanivasal Village on the strength of the order, dated 14.10.1983, issued by the Assistant Settlement Officer, Madurai granting him settlement patta. He sought issuance of patta from the jurisdictional Tahsildar on that basis. Since Mela Veeranjatti Urani Karpaga Vinayagar Kovil Trust also



W.P(MD)Nos.16493 of 2020 & 10697 of 2021

staked rival claim, Thiru.L.Nachiappan's request was rejected vide order, dated 08.10.2020. Questioning the same, W.P(MD)No.16493 of 2020 came to be filed. During the pendency of the said writ proceedings, petition was submitted before the Commissioner of Survey and Settlement, Chepauk, Chennai by Thiru.L.Nachiappan. Before the said authority a partition deed executed among the family members on 26.06.2020 was also produced. After considering the materials on record, the Commissioner of Survey and Settlement, Chepauk, Chennai passed the following order:

*"22. In view of the submissions made above, after careful consideration of the documents it is made clear that as per the instruction of Commissioner of Land Administration in the reference 13th cited the proceedings of the then ASO, Madurai has been verified and found genuine and the S.Nos. and extent for which the petitioner lay claim, are none other than S.No.65 to an extent of 5.68.0 hectares and S.No.298/1 to an extent of 2.35.5 hectares respectively as identified with reference to the four boundaries by the Assistant Settlement Officer (South) in the inspection remarks dated 15.03.2021.*

*23. Since the patta already in the name of Thiru.Pandian S/o.Thiru Lakshmanan Chettiar with respect of lands in old S.No. 65/1 & 65/2 which correlates new S.No.65 and 298/1 to an extent of 5.68.0 hectares and 2.35.5 hectares as per the observation of Madurai Bench of Madras High Court in W.P.No.873 of 2006 and*



W.P(MD)Nos.16493 of 2020 & 10697 of 2021

*W.M.P.No.949 of 2006, the Tahsildar, Karaikudi is requested to sub-divide the lands as per registered partition deed and as per the enjoyment and make necessary entries in revenue records accordingly."*

This order, dated 28.05.2021, is put to challenge by the Trust in W.P(MD)No. 10697 of 2021.

3. Though the learned Counsel on either side reiterated all the contentions set out in the respective pleadings, I need not go into the factual aspects. Suffice to say that both the parties, namely, Thiru.L.Nachiappan as well as the Trust are anchoring their respective claims on the ryotwari patta issued by the Assistant Settlement Officer in the year 1983. In these circumstances, the jurisdictional Tahsildar was justified in declining to issue patta to Thiru.L.Nachiappan. However, the reasons set out in the order dated 08.10.2020 are clearly erroneous. I however not want to set aside the said order on that ground. Merely because I decline to interfere with the said order dated 08.10.2020 that will not in anyway affect the rights of Thiru.L.Nachiappan because of the disposal that I am now proposing to give to both the writ petitions.



W.P(MD)Nos.16493 of 2020 & 10697 of 2021

4. In my view, the issue essentially boils down to the question of identifying the properties covered by the respective pattas on ground.

Thiru.L.Nachiappan claims 10 acres of land in old S.No.65/1 on the strength of patta dated 14.10.1983. The Trust also claims title over 10 acres of land in the very same survey number on the strength of patta dated 18.10.1983. It is true that the Commissioner of Survey and Settlement, Chepauk, Chennai had passed an order in favour of Thiru.L.Nachiappan on 28.05.2021 without hearing the Trust or their representative. Therefore the order, dated 28.05.2021 has to be interfered with on the ground of violation of principles of natural justice.

5. If a proper survey is undertaken and the land covered by the respective pattas are identified on ground, then it would give quietus to the entire issue. Even while setting aside the order dated 28.05.2021 passed by the Commissioner of Survey and Settlement, Chepauk, Chennai, the matter is remanded to his file. The Commissioner of Survey and Settlement, Chepauk, Chennai is directed to enquire both the parties and test their claims with reference to the relevant records and the situation on ground. The rights of the parties will abide by the eventual outcome of this exercise of identifying and demarcating the respective properties. This exercise shall be completed within a period of six (6) months from the date of receipt of a copy of this order. Both the writ petitions stand disposed of accordingly. There shall be no order as to



**W.P(MD)Nos.16493 of 2020 & 10697 of 2021**

costs. Consequently, connected Miscellaneous Petitions stand closed.

WEB COPY

**25.01.2023**

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

**Note: Issue order copy on 31.01.2023.**

To

1.The District Collector,  
Sivagangai District,  
Sivagangai.

2.The Tahsildar,  
Karaikudi Taluk,  
Sivagangai District.

3.The Trustee,  
Mela Veeranjatti Urani Karpaga Vinayagar Kovil Trust,  
Mela Urani Road,  
Karaikudi,  
Sivagangai District.

4.The Commissioner of Survey and Settlement,  
Chepauk, Chennai.

5.The District Collector,  
Sivagangai District,  
Sivagangai.

6.The Revenue Divisional Officer,  
Devakottai,  
Sivagangai.



WEB COPY



W.P(MD)Nos.16493 of 2020 & 10697 of 2021

**G.R.SWAMINATHAN, J.**

Btr

7.The Tahsildar,  
Karaikudi Taluk,  
Sivagangai.

W.P(MD)Nos.16493 of 2020 & 10697 of 2021

and

W.M.P(MD)Nos.13788 of 2020 and 8321 & 8322 of 2021

25.01.2023