



W.P.(MD).Nos.16739 and 13405 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.16739 and 13405 of 2021
and
W.M.P.(MD).Nos.10364, 10365, 13631, 13635 of 2021**

W.P.(MD).No.16739 of 2021:

Adi Ganapathy

... Petitioner

Vs.

- 1.The Principal Secretary and Commissioner of Land Administration,
Land Administration Department,
Ezhilagam, Chepauk,
Chennai – 600 005.
- 2.The District Collector,
Sivagangai.
- 3.The District Revenue Officer,
Sivagangai.
- 4.The Revenue Divisional Officer,
Sivagangai.
- 5.The Special Tahsildar, (Land Acquisition),
National Highways – 226,
Sivagangai.
- 6.The Tahsildar,
Sivagangai.



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7.V.Malaisamy

... Respondents

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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, to call for the records relating to the orders dated 19.07.2021 in Na.Ka.No.A3/3886/2021 of the fifth respondent herein and the proceedings dated 06.08.2021 in Na.Ka.No.A1/75/L.A.N.H./2016 of the sixth respondent herein, quash the same and consequently direct the respondents herein to disburse the compensation to the petitioner in respect of the property to an extent of 967 Squares Meters in Survey No.120/3 and 5700 Square Meters in Survey No.121/1 of Kottakudi Village, Sivagangai District.

For Petitioner : M/s.AL.Ganthimathi,
Senior Counsel,
For Mr.C.Mahadevan

For R-1 to R-6 : Mr.B.Saravanan,
Additional Government Pleader.

For R-7 : Mr.P.Mahendran

W.P.(MD).No.13405 of 2021:

V.Malaisamy

... Petitioner

Vs.

1.The Land Revenue Settlement Officer,
(Nila Vari Thitta Aluvalar),
Chennai – 600 005.



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- 2.The District Collector,
Office of the District Collector,
Sivagangai.
- 3.The District Revenue Officer,
Office of the District Revenue Officer,
Sivagangai.
- 4.The Special District Revenue Officer (Land Acquisition),
226-National Highways,
Office of the District Collector,
Pudukkottai.
- 5.The Special Tahsildar, (Land Acquisition),
226 National Highways,
Office of the District Collector,
Pudukkottai.
- 6.The Tahsildar,
Sivagangai Taluk,
Sivagangai Taluk Office,
Sivagangai District.
- 7.Adi Ganapathi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings issued by the sixth respondent vide proceedings in Pa Mu Aa3/1937/2020 dated 16.11.2020 and impugned proceedings issued by the first respondent in Na.Ka.No.E2/9664/2009 dated 29.06.2010 and quash the same as illegal and nonest in law and consequently forbearing the respondents 4 and 5 from disbursing the award amount in favour of the seventh respondent in connection with Award No.A1/75/201-2 dated 05.11.2020.



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For Petitioner : Mr.P.Mahendran

For R-1 to R-6 : Mr.B.Saravanan,
Additional Government Pleader.

For R-7 : M/s.AL.Ganthimathi,
Senior Counsel,
For Mr.C.Mahadevan

COMMON ORDER

In both the writ petitions the parties are same and have common issues and hence taken up for hearing and the present common order is passed.

2.(i) The Writ Petition in W.P.(MD)No.16739 of 2021 is filed to quash the order dated 19.07.2021 and 06.08.2021 and consequently direct the respondents herein to disburse the compensation to the petitioner in respect of the property to an extent of 967 Squares Meters in Survey No.120/3 and 5700 Square Meters in Survey No.121/1 of Kottakudi Village, Sivagangai District.

2.(ii) The Writ Petition in W.P.(MD)No.13405 of 2021 is filed to quash the impugned proceedings dated 16.11.2020 in Pa.Mu.Aa3/1937/2020 passed by the 6th respondent and impugned proceedings dated 29.06.2010 in



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Na.Ka.No.E2/9664/2009 issued by the 1st respondent as illegal and non est in law and consequently forbearing the respondents 4 and 5 from disbursing the award amount in favour of the 7th respondent in connection with Award No.A1/75/201-2 dated 05.11.2020.

3. For the sake of convenience, the parties are referred to as per their ranking in W.P.(MD)No.16739 of 2021.

4. Originally, the land to an extent of 4.38.0 hectares in Survey No.120 and 0.81.0 hectares in Survey No.121/1 are the subject matter of the orders before the Assistant Settlement officer, Madurai dated 16.07.1979. The said lands were originally owned by Vaiyamoorthy who had obtained a cowl pattadaippu and the father of the petitioner Adhimoolam Servai had purchased these lands from Swaminatha Moorthy by way of a registered sale deed of the year 1907 and 1946. Ultimately, the petitioner's claim for patta under the Inam Abolition Act was decided by the proceedings of Assistant Settlement Officer, Madurai by order dated 16.07.1979, wherein patta has been granted for an extent of 1.60.5 hectares in Survey No.120/3 and 0.81.0 hectares in Survey No. 121/1 of Kottakudi Village, Sivagangai District. As against the orders of the



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Assistant Settlement Officer, the seventh respondent filed an appeal in S.T.A.No.11 of 1989 before this Court and this Court vide order dated 13.11.1996 dismissed the appeal. Hence, the seventh respondent was not entitled to any patta in respect of the lands under the Inam Abolition Act in Survey Nos.120 and 121/1. Moreover, no appeal has been filed by any of the respondents against the said orders and hence the orders in favour of the petitioner herein had attained finality. In spite of the fact that Ryatwari patta has been granted in favour of the petitioner by the proceedings of the Assistant Settlement Officer, Madurai which was confirmed by this Court, the seventh respondent had filed suits in O.S.No.96 of 1997 and O.S.No.138 of 1997 on the file of the District Munsif, Sivagangai, praying for bare injunction in respect of the properties in dispute. By judgment and decree dated 26.10.2004, the suits came to be decreed. As against the same, the petitioner filed an appeal in A.S.No.122 of 2004 on the file of the Subordinate Judge, Sivagangai. Through judgment and decree dated 18.06.2007, the said Appeal Suit was allowed, thereby the suits filed by the seventh respondent were dismissed. As against the same, the seventh respondent filed Second Appeal (MD)Nos.1095 and 1096 of 2007 and 473 of 2008 and the same came to be dismissed by this Court by judgment and decree dated 29.11.2018. As such, the entire proceedings before



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the Civil Court by the seventh respondent, that too for a bare injunction was dismissed by this Court.

5. In the meanwhile, the petitioner submitted an application before the first respondent for carrying out the entries in respect of the lands in Survey Nos.120 and 121/1 based on the orders of the Assistant Settlement Officer dated 16.07.1979. The first respondent after considering all the documents, by order dated 29.06.2010, has allowed the claim of the petitioner. The said order was not challenged by the seventh respondent for the past 11 years. Pursuant to the order dated 29.06.2010 of the first respondent, the lands have been classified as Survey Nos.120 and 121/1 and patta was sought to be transferred in favour of the petitioner. However, pursuant to the representation by the petitioner for correcting the entries in UDR in respect of the properties, the said application was rejected by orders of the District Revenue Officer, Sivagangai by order dated 25.02.2019, observing that the Second Appeals are pending before the High Court. However, the fact remains that as on the date of consideration, the Second Appeals filed by the seventh respondent were already dismissed, has not been brought to the knowledge of the District Revenue Officer while dismissing the petition filed by the petitioner. Even under the said



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orders, it was clearly observed that the lands in Survey Nos.120 and 121/1 is concerned, the patta already stands in the name of the petitioner and as such, the said order dated 25.02.2019 is not against the petitioner. However, since request of the petitioner has been rejected, the petitioner filed a Writ Petition in W.P.No.18217 of 2019 only in so far as the properties comprised in Survey No. 41/2, 120, 121/1, 118/1&2, 119/1, 112/3, 109/2A1, 107/17, 106/1, 100/6 and 90/1 of Kottakudi Village, Sivagangai Taluk and the said Writ Petition was withdrawn by the petitioner in view of the fact that the same is with regard to the aforesaid lands and in respect of the lands in Survey Nos.120 and 121/1, the patta already stood in the name of the petitioner and it is only in respect of a request to carry out the corrections. Later, the seventh respondent has filed a suit in O.S.No.23 of 2020 only in respect of Survey Nos.118/1, 118/2, 119/1 and the lands in Survey Nos.120 and 121/1 are not subject matter of the suit. Based on the order dated 29.06.2010 of the 1st respondent, the Tahsildar vide order dated 16.11.2020 had directed mutation of the revenue records and for transfer of patta in favour of the petitioner in respect of S.No.120 and 121/1 and later the petitioner had also made a request to the Tahsildar.



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6. While the matter being so, the land in S.No.120/3 to an extent of 967 square meters and land in S.No.121/1 to an extent of 5700 square meters was acquired for the purpose of extension of road Thanjavur-Manamadurai National Highway 226 and after due notice and enquiry an award was passed by the Special District Revenue Officer by an award dated 31.12.2015 in Award No.7 of 2015 and Award dated 30.11.2017 in Award No.121 of 2015-16 in which compensation were directed to be received after producing the relevant documents in respect of the ownership of the property. Hence the petitioner made a representation to Tahsildar to transfer the patta in the petitioner's name and carry out the mutations as per the orders dated 16.11.2020 on the ground that even though patta has been granted in favour of the petitioner by the orders of the Assistant Settlement Officer erroneously observing that circulars has been issued on 14.02.2011 by the 1st respondent with regard to the time barred applications in respect of the poramboke lands which was stayed during the currency of the Ryatwari Settlement under various Abolition Acts and hence directions were issued not to implement the orders passed, if any order passed by the Assistant Settlement Officer/Settlement Officer / Director of Survey and Settlement without getting instructions from the Principal Secretary and Commissioner of the Land Administration. Citing the said Circular, the



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Revenue Divisional Officer by proceedings dated 19.07.2021 set aside the orders dated 16.11.2020 of the Tahsildar. Subsequent thereto the Special Tahsildar (Land Acquisition) by orders dated 06.08.2021, on the basis of the aforesaid order dated 19.07.2021, declined to pay compensation since orders granting patta was already cancelled by the Revenue Divisional Officer. Hence the contention of the petitioner is that the orders are totally arbitrary and unjust and without considering the fact that the Assistant Settlement Officer has granted patta which was confirmed by the order of the Hon'ble Court and there is no delay or time barred application in respect of the petitioner's case. Further contention of the petitioner is that the seventh respondent is unnecessarily blocking the compensation which is payable to the petitioner.

7. The respondents 1 to 6 filed had filed counter stating that the petitioner was granted settlement patta as early as 16.07.1979. However, the petitioner is claiming patta for the entire Survey No.120, which is not applicable. The Settlement Tahsildar has issued patta only for 120/3 and 121/1. But in the settlement patta, it has been categorically held the Survey No.120/1 is classified as Odai and Survey No.120/2 as Marukal (assessed waste) and the Settlement Officer had declined patta for Survey Nos.120/1 and 120/2. Further in the



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Settlement Tahsildar patta proceedings, the Settlement Officer has categorically held that not only the petitioner, no one will be entitled to patta in respect of Survey Nos.120/1 and 120/2. The land in Survey No.120/1 measuring about 5 acres 79 cents was classified as Odai and marukal and the land in Survey No. 120/2 measuring about 1 acre 6 cents was classified as assessed waste. The said suit is filed only against the State and the writ petitioner herein who himself got impleaded in the said suit as he was also aggrieved by placing reliance that he was granted patta in respect of S.No.120/3 which is the subject matter of O.S.No.96 of 1997. Subsequently, the civil litigation ended up in High Court by filing Second Appeal in S.A.(MD)No.1096 of 2007 and the Second Appeal was dismissed. The respondents are not declining the Settlement Tahsildar patta which is granted in proceedings dated 16.07.1979 and the patta is granted only for S.No.120/3 and 121/1. The sum and substance of the counter is that the petitioner is not entitled to patta for S.Nos.120/1 and 120/2, since it is classified as Odai and Marukal (assessed waste). But the respondents are not declining patta for S.Nos.120/3 and 121/1. The prayer in the Writ Petition is only for S.Nos.120/3 and 121/1. As far as the official respondents are concerned, they are not declining the prayer of the petitioner.



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8. However, the seventh respondent is claiming that the petitioner has filed a suit and also other petitions before the District Revenue Officer claiming patta for the lands belonging to the seventh respondent. The District Revenue Officer vide proceedings dated 25.02.2019 has considered the petitioner's claim for the S.Nos.41/2, 118/1, 118/2, 119/1, 112/3, 109/2A1, 107/17, 106/1, 100/6, 90/1, which lands belonging to the seventh respondent.

9. The issue before this Court is only with regard to apart from S.No.120/1, 120/2, 120/3 and 121/1. This Court is not concerned with other survey numbers namely S.Nos.41/2, 118/1, 118/2, 119/1, 112/3, 109/2A1, 107/17, 106/1, 100/6, 90/1. Therefore, there is no impediment in granting relief to the petitioner. Therefore, the petitioner is entitled to the acquisition compensation for S.Nos.120/3 and 121/1. The compensation shall be paid within a period of eight (8) weeks from the date of receipt of a copy of this order. It is made clear that the petitioner is not entitled to any patta for S.Nos.120/1 and 120/2, since it is classified as Odai and Marukal (assessed waste). The petitioner was not granted any patta for S.Nos.120/1 and 120/2 and is not entitled to compensation for S.Nos.120/1 and 120/2. At the cost of repetition, the petitioner is entitled to patta only for S.Nos.120/3 and 121/1 and hence entitled to acquisition compensation for lands in S.Nos.120/3 and 121/1 only.



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10. As far as other survey numbers in S.Nos.41/2, 118/1, 118/2, 119/1, 112/3, 109/2A1, 107/17, 106/1, 100/6, 90/1 are concerned, the petitioner has already filed a suit. The seventh respondent and the petitioner are directed to litigate in O.S.No.23 of 2020 on the file of Sub Court, Sivagangai to substantiate their rights. The Sub Court Sivagangai shall disposed of the suit within a period of one year from the date of receipt of a copy of this order.

11. With the above observations and directions, the Writ Petition in W.P. (MD)No.16739 of 2021 is allowed and the Writ Petition in W.P.(MD)No.13405 of 2021 is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

31.08.2023

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



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To

1. The Principal Secretary and Commissioner of Land Administration,
Land Administration Department,
Ezhilagam, Chempauk,
Chennai – 600 005.
2. The District Collector,
Sivagangai.
3. The District Revenue Officer,
Sivagangai.
4. The Revenue Divisional Officer,
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5. The Special Tahsildar, (Land Acquisition),
National Highways – 226,
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6. The Tahsildar,
Sivagangai.
7. The Land Revenue Settlement Officer,
(Nila Vari Thitta Aluvalar),
Chennai – 600 005.
8. The Special District Revenue Officer (Land Acquisition),
226-National Highways,
Office of the District Collector,
Pudukkottai.
9. The Special Tahsildar, (Land Acquisition),
226 National Highways,
Office of the District Collector,
Pudukkottai.

Copy To:

The Subordinate Judge,
Sivagangai.



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S.SRIMATHY, J.

Nsr

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