



W.P.(MD) No.16183 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2023

PRONOUNCED ON : 03.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

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- 1.D.Yacobu
- 2.R.Subbulakshmi
- 3.A.Lakshmanan
- 4.T.Valli Manavalan
- 5.P.Veluchamy
- 6.P.Saravanan
- 7.V.Chellammal
- 8.S.Saraswathi
- 9.V.Jesudas (died)
- 10.V.Chinnappan
- 11.S.Vijayakumar
- 12.M.Pappa



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13.L.Pachaikili

14.S.Seenivasan

15.P.Mahalingham

16.S.Ayilammai

17.S.Sheik Imamsa

18.S.Dhanabakiyam

19.R.Amirtham

20.N.Parimala

21.M.Pandiyan

22.T.Shanmugavalli

23.V.Manimala

24.R.Bhuvaneswari

25.R.Natarajan

26.N.Sellammal

27.M.Shanthi

28.K.Kulanthai Sami

29.P.Subburathinam

30.Jakeer Hussein



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31.Akbar Hussein

32.James

33.Deivanai

34.E.R.Anandan

35.Saral

36.Vasantha

37.Rubavathi

38.Sumathi

39.Johnson

40.Rajasekaran

41.Jayabal

42.Bhuvaneshwari

43.Jothi Lakshmi

44.Loganathan

*(P35 to P44 have been impleaded
vide order dated 25.01.2023).*

... Petitioners

/vs./



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- 1.State of Tamil Nadu,
represented by Additional Chief Secretary cum
Commissioner of Land Administration,
Ezhilagam,
Chennai.
- 2.The District Collector,
Karur.
- 3.The District Revenue Officer,
Kulithalai.
- 4.The Revenue Divisional Officer,
Kulithalai.
- 5.The Tahsildar,
Kulithalai.
- 6.The Kulithalai Municipality,
represented by Commissioner,
Kulithalai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent 2 to 5 to grant/issue patta to petitioners in respect of our lands/house sites in old S.Nos.64, 106B & 107 of Vaigai Nallur North-Village, Kulithalai Taluk subsequently comprised within Survey Number 81, ward No.22, behind Library, Kulithalai.

For Petitioners : Mr.H.Lakshmi Shankar
For R1 to R5 : Mr.V.OM.Prakash
Government Advocate



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ORDER

The writ petition has been filed seeking for a Mandamus to direct the respondents 2 to 5 to grant patta to the petitioners in respect of their lands/house sites in old S.Nos.64, 106B & 107 at Vaigai Nallur North-Village, Kulithalai Taluk, which has been subsequently renumbered as S.No.81, Ward No.22.

2.Heard Mr.H.Lakshmi Shankar, learned counsel for the petitioners and Mr.V.OM.Prakash, learned Government Advocate for the respondents 1 to 5.

3.Mr.H.Lakshmi Shankar, learned counsel for the petitioners would submit that the petitioners are in possession and enjoyment of their respective properties in S.No.81, Ward No.22 at Kulithalai Town. According to the petitioners, S.No.81 was originally bearing in S.Nos.64, 106B and 107, for which patta has been issued in favour of the then owners. But when the amalgamation had happened, it was strangely classified as 'assessed nanjai-tharisu' in the village accounts. Based upon the said classification, eviction proceedings were sought to be initiated. The 11th petitioner herein and the predecessor in interest of the 18th petitioner had originally filed suits in O.S.Nos.211, 239 and 240 of 1986 before the Principal

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District Munsif Court, Kulithalai seeking for declaration of title and permanent injunction in respect of the properties in the aforesaid survey number. The said suits were jointly tried and after contest were decreed by the said Court in favour of such petitioners. No appeal has been preferred by the Government and therefore, the same had become final as between the parties.

4.The learned counsel for the petitioners would submit that the petitioners or their predecessor in title have been in possession of the properties for more than 60 years and they have put up the construction. Their houses have been assessed to property tax by the Municipality and drinking water connection has also been effected. They have also been issued with Family Card and Voter identity cards with reference to the residence of the property. The petitioners have made a representation on 12.02.2013 to the respondents to issue patta in their names. The fourth respondent had called upon the petitioners for enquiry on 28.03.2013 and the petitioners had submitted their documents. On that day, the petitioners were informed that in respect of S.No.81, a Prohibitory Order Book has been opened and therefore, their representation could not be considered. The



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petitioners again made a representation on 28.05.2013, which also evoked no response.

5.The learned counsel for the petitioners would submit that as per the Board Standing Orders No.31, when a judgment has been passed in a civil suit, the revenue authorities would have to mutate the revenue records as per the judgment and decree passed by the Court. In this case, he would submit that the judgment and decree in respect of some of the petitioners herein was obtained as early as in the year 1988 and in respect of certain individuals, who are the residents of S.No.81, further judgment and decree was also obtained even pending this writ petition. Therefore, it is duty bound upon the revenue authorities to mutate the revenue records in the name of the petitioners.

6.He would further submit that the lands have been classified as 'assessed nanjai-tharaisu'. That would mean that it is an unobjectionable Poramboke land. He would also rely upon various Government Orders issued by the Government for grant of patta in unobjectionable Poramboke lands. He would also submit that as per G.O.(Ms).No.498, Revenue (LD1(2)) Department, dated 05.09.2007, a



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specific direction has been issued by the Government for deleting the Poramboke lands from the Prohibitory Order Book as well as change the classification of Poramboke lands to Natham for grant of house site assignment under regular house site scheme. He would further submit that the revenue authorities, namely the respondents 2 to 5 herein, for the reasons best known to them, have not implemented the Government Orders, which reflects the policy decision of the Government. Hence, he would submit that the Mandamus as prayed for would have to be granted.

7.Countering his arguments, Mr.V.OM.Prakash, learned Government Advocate for the respondents 1 to 5 relying upon the counter affidavit filed by the fourth respondent would submit that the total extent of S.No.81 is 1.57.0 hectares and that the land has been classified as 'assessed nanjai-tharisu'. He would further submit that prior to the UDR, S.No.64 was sub-divided into S.Nos.64/1, 64/2 and 64/3 and was classified as agricultural lands standing in the name of Gopaldas Family Trust Estate, Sukla Yajurveda Padasaalai Manager Saraswathy Ammal and Govindarajulu Naidu. As regards S.No.106, it was classified as Paattai Poramboke and as regards S.No.107, there are four sub-divisions in the said



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survey number and that there is an entry with regard to sub-division 2 as Natham.

For that sub-division, there are entries of names of Pattadhars.

8.He would further submit that the land in S.No.81 at Vaigainallur North Village, Kulithalai Taluk, Karur District has been entered into the Prohibitory Order Book as early as in the year 1997 and therefore, the petitioners would not be entitled to the relief as claimed by them. He would further submit that certain petitioners are residing within 100 feet away from the railway line. Hence, he would submit that the prayer sought for in this writ petition could not be granted.

9.I have considered the rival submissions made by the learned counsels appearing on either side.

10.The claim of the petitioners is that they have been residing in the disputed land in S.No.81 for very long years either by themselves or through their predecessor in title. It is also admitted by the respondents that S.No.81 comprised of old S.Nos.64, 106B and 107. From the counter affidavit filed by the fourth respondent, it could be seen that before the UDR settlement, S.Nos.64, 106B and



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107 have been classified as agricultural land, Paattai Poramboke and Natham respectively. When such a classification has been made prior to the UDR, it is not explained by the fourth respondent that as to how during the UDR they were classified as 'assessed nanjai-tharisu'.

11.In common parlance, Nanja lands would denote wetlands. When these are wetlands, it is not known on what basis, they were declared to be Tharisu. There seems to be some mistake on the part of the then revenue authorities, who had conducted the updation of revenue records by classifying the same as 'assessed nanjai-tharisu'.

12.The classification that has been made to S.No.81 as 'assessed nanjai-tharisu' (waste) is a very peculiar classification. A wetland has been classified to be a waste land. The Board Standing Order permits classification of lands as wet, dry and Poramboke lands. The Poramboke lands were again classified as assessed, un-assessed and reserved. The lands, which are reserved for a particular purposes, are not available for assignment. S.No.81 is not a reserved land for a specific purpose. Therefore, as rightly pointed out by the learned counsel for the



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petitioners that when the Government had taken a policy decision under various Government Orders to grant house site pattas to the persons, who are residing in the said land, based upon their possession and enjoyment, their applications for grant of patta will have to be entertained by the respondents. The entry in the Prohibitory Order Book of S.No.81, in my view, is without any basis and that too, when the land has not been specifically reserved for a particular purpose. When the lands have not been reserved for a particular purpose, then it could utmost be termed as an unobjectionable Poramboke land.

13.In the present case, the lands have not been classified as Poramboke land. It has only been classified as 'assessed nanjai-tharisu'. Hence, the entry in the Prohibitory Order Book, in my view, is wholly illegal and arbitrary. It is an admitted fact that there is a decree in respect of certain parcels of S.No.81 as against the Government. They have not filed any appeal as against the said order and such judgment and decree has been in force for more than nearly 3 decades. Having suffered a judgment and decree, the respondents at least in respect of those parcels of land cannot now be heard to say that such persons are not entitled to be issued with patta. This, in my view, would be in violation of Board Standing



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Order No.31(4)(ii). For better appreciation, the said Rule is extracted hereunder:-

“31(4)(ii). Transfers under declaratory decrees:- *In cases where transfer of registry is sought under a declaratory decree on which no execution can be taken out ie., where the decree merely declares the title to be vested in a particular person, so as to entitle him to registration, the Collector or other authorized officer may, on production of an authenticated copy of such decree, at once order the transfer of registry.”*

14.It would also be useful to refer to sub clause 7 of the said Board Standing Order No.31. For useful reference, the same is extracted hereunder:-

“31.7. Transfer in favour of persons providing possession for twelve years:- *When parties who have no documents of title are shown in a summary inquiry to have been in possession as reputed owners for twelve years or more, transfer of registry may be made after notice, etc., as provided in rule 3(i). The action contemplated in this paragraph may be taken by the revenue officers either on their own motion or on the application presented by the parties concerned.*

Payment of revenue as evidenced by the production of kist receipts or by the testimony of the village officers may be taken as proof of possession, but the absence of such proof should not be



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15. When that being the position, I am of the view that the petitioners are entitled to be granted with patta subject to them furnishing appropriate documents as specified under Board Standing Order Nos.31(4)(ii) and 31(7). If such claims are made, the second respondent shall consider the same independently and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of making of such claims. The petitioners shall make such claims only within a period of four weeks from the date of receipt of a copy of this order.

16. With the above directions, the Writ Petition is disposed of. However, there shall be no order as to costs.

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

03.03.2023

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To

- 1.The Additional Chief Secretary cum
Commissioner of Land Administration,
Ezhilagam,
Chennai.
- 2.The District Collector,
Karur.
- 3.The District Revenue Officer,
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- 4.The Revenue Divisional Officer,
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K.KUMARESH BABU, J.

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order made in
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