



W.P(MD)Nos.18785 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2023

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.18785 of 2014 and
MP(MD) Nos.2 of 2014 and 1 of 2015

Islamiya Uravinmurai Trust Board,
Represented by its Vice President,
A.Mohammed Gouse,
Veeracholan – 626612
Virudhunagar District.

Petitioner

Vs

1.The Additional Chief Secretary /
Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai – 600 005.

2.The District Collector,
Virudhunagar,
Virudhunagar District.

Respondents

PRAYER :Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings in letter No.K2/35240/2013, dated



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13.05.2014 and quash the same as illegal and consequentially to direct the respondent to grant patta in respect of land in S.No.306/4 and 306/8 admeasuring to an extent of 5591 sq.mtr situated at Veeracholan, Thiruchuli Taluk, Virudhunagar District in the name of the petitioner's trust.

For Petitioner	:Mr.Mohammed Imran For M/s.Ajmal Associates
For Respondents	:Mr.J.K.Jayaseelan Government Advocate

ORDER

The petitioner has filed this writ petition as against the order of the first respondent, dated 13.05.2014, rejecting the request of the petitioner for grant of patta in favour of him for the land in Survey Nos.306/4 and 306/8, measuring to an extent of 5591 sq.mtr situated at Veeracholan Village and for a consequential direction to the respondents to grant a patta in favour of the petitioner for the above land.

2.The learned counsel appearing for the petitioner, by referring the notification issued by the Secretary, Tamil Nadu Waqf



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Board, under Section 5(2) of the Waqf Act, 1954 submits that the above property is a Waqf property, which has been exclusively used by muslims and also notified under Waqf Act, 1954.

3.The learned Government Advocate appearing for the respondents by relying upon the counter affidavit submits that the Veeracholan Village was taken over by the Government under Tamil Nadu Estate (Abolition Conversion to Ryotwari) Act XXVI of 1948 and during the settlement, Old S.No.204/8 was classified as Government poramboke – grama natham S.No.204/30 measuring 1.50 acre was classified as “Government Poramboke Oorani”. He further submits the Field measurement Book discloses that the land in S.No.204/30 New S.No.306/4 was shown as “water body” and the same was encroached by the petitioner trust. Originally, the Oorani to an extent of 1.50 acre in settlement has shrunk to 1.00 acre in the Natham Settlement, due to encroachments. According to the learned Government Advcoate, the decision made in the settlement under the Act XXVI of 1948 cannot be altered.



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4.Heard the learned counsel on either side and perused the materials placed on record.

5.The petitioner claims that the land in Survey Nos. 306/4 and 306/8, measuring to an extent of 5591 sq.mtr situated at Veeracholan Village is the waqf property and they sought for patta for the subject land. However, the request of the petitioner was rejected by the respondents on the ground that the land was originally classified as Oorani under the Tamil Nadu Estate (Abolition Conversion to Ryotwari) Act XXVI of 1948 and the order impugned in this writ petition has been passed with a direction to the District Collector to restore the water body to its original position. The petitioner's claim is based on the notification issued by the Secretary, Tamil Nadu Waqf Board, under Section 5(2) of the Waqf Act, 1954. On the other hand, the specific stand taken by the respondent is that it was declared as Oorani.



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6. When this Court is not inclined to entertain this writ petition, the learned counsel for the petitioner seeks liberty to establish his right by filing a civil suit.

7. Since there is a civil dispute with regard to the subject land, this Court is not inclined to entertain this writ petition and accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner, to work out his remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petition are closed.

26.06.2023

NCC : Yes / No.

Index : Yes / No.

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