



W.P.(MD) No.14136 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.01.2023

PRONOUNCED ON : 22.02.2023

CORAM

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

W.P.(MD) No.14136 of 2015
and
M.P.(MD) Nos.2 and 3 of 2015

1.K.N.Sheik Mohamed

2.C.Alagumani

... Petitioners

/vs./

1.The District Collector,
Pudukottai District,
Pudukottai.

2.The District Revenue Officer,
Pudukottai.

3.The Revenue Divisional Officer,
Pudukottai.

4.The Tahsildar,
Thirumayam Taluk,
Pudukottai District.

5.Rama Karuppiah



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WEB CAM 6.Alaki

7.Shanthi

8.Karthick Kumar

9.Sarasu

10.Palaniappan

11.Pasupathi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order dated 07.07.2015 in Na.Ka.No.10736/14/B3 passed by the 2nd respondent confirming the order in Proceedings Na.Na.A6 10614-03 dated 05.01.2007 passed by the 3rd respondent and quash the same.

For Petitioners	: M/s.AL.Ganthimathi
For R1 to R4	: Mr.V.OM.Prakash
	Government Advocate
For R5	: Mr.S.Alagusundar

ORDER

The instant writ petition has been preferred by the petitioners seeking to quash the order passed by the second respondent confirming the order passed by the third respondent refusing to cancel the patta issued in favour of the private respondents, namely the respondents 5 to 11.



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2.Heard M/s.AL.Ganthimathi, learned counsel for the petitioners, Mr.V.OM.Prakash, learned Government Advocate for the respondents 1 to 4, Mr.S.Alagusundar, learned counsel for the fifth respondent and none appears for the respondents 6 to 11.

3.When the matter was taken up, it was brought to the notice of this Court that the first petitioner had died. A statement to that effect had been made by the learned counsel for the petitioners before this Court on 30.09.2022. But however, even as on today, no steps have been taken to bring on record the legal heirs of the first petitioner.

4.The learned counsel for the fifth respondent brought to the notice of this Court that the averments made in the writ petition would suggest that the petitioners have approached this Court on behalf of the villagers of Lempalakudi Village, N.Pudur, Thirumayam Taluk, Pudukkottai District. In view of such a specific averment made by the petitioners in paragraph No.3 of their affidavit, I deem it proper to proceed with the hearings of the writ petition, since the second petitioner is available on record to espouse the case made in this writ petition.



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5.M/s.AL.Ganthimathi, learned counsel for the petitioners would submit that the land in S.F.No.966/23 measuring an extent of 0.92 ares at Lempalakudi Village is classified as Government Natham in the settlement records. According to her, the land is a vacant site utilized by the entire villagers to reach the grave yard and ponds and that most of the villagers belong to downtrodden people and do not have lands to construct their houses. Hence, a representation was sent by the villagers on 28.06.2003 to grant them patta in the said Natham lands. The petitioners had verified the revenue records and had found that in 1996, Natham patta has been issued in favour of the respondents 5 to 11 for an extent of 1 acre and 64 cents in the aforesaid survey number.

6.She would vehemently contend that such issuance of Natham patta for a large extent that too in favour of the members belonging to the same family is in violation of the Board Standing Orders. Based on the representation of the villagers, a show cause notice was issued to the respondents 5 to 11 calling upon them to show cause as to why their Natham patta granted in the year 1996 should not be cancelled. Challenging the said notice, the respondents 5 to 11 had preferred O.S.No.11 of 2004 on the file of the District Munsif Court, Thirumayam



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seeking to declare that the said show cause notice as null and void. The said suit was dismissed on 28.03.2006 with a direction to the respondents 5 to 11 to submit their explanation.

7.She would further submit that pending the suit, the fourth respondent by order dated 25.01.2005 had sub-divided S.F.No.966/23 and issued individual pattas in favour of the respondents 5 to 11. Again, the villagers had submitted series of representations, upon which the fourth respondent had made a recommendation to the third respondent to cancel the patta issued in favour of the respondents 5 to 11. Pursuant to the show cause notice issued to the respondents 5 to 11, the third respondent by his proceedings dated 05.01.2007, had confirmed the individual pattas granted in favour of the petitioners.

8.She would further contend that while passing such an order, the petitioners were not put on notice. Hence, they had preferred an appeal to the second respondent. Even though an order of interim stay was granted by the second respondent, the second respondent by his order dated 07.07.2015 had dismissed the appeal. Hence, the petitioners had filed the present writ petition.



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9.M/s.AL.Ganthimathi, learned counsel for the petitioners at the outset would contend that the grant of patta in Natham land for an extent of 1 acre and 64 cents to the members of the same family is in violation of the Board Standing Orders. She would further contend that the Natham lands are for the villagers to be utilized for the residential purposes of the village. It cannot be held by the members of the single family. She would further submit that when the show cause notices have been issued to the respondents 5 to 11 based upon the representation of the villagers, the villagers were not put on notice of such an enquiry, which affects the rights of the villagers. She would submit that there was no document to support the claim of the private respondents.

10.She would further rely upon G.O.No.75 dated 05.02.2000 and G.O.No. 168 dated 27.03.2006 to drive home her contention that Natham patta would only be granted to the people, who had constructed houses in Poramboke lands. But here, a large track of land has been issued with patta. Hence, she would submit that the orders impugned in this writ petition will have to be set aside and the respondents 1 to 4 have to be directed to consider the claim of the villagers for grant of patta in their favour.



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11.Mr.S.Alagusundar, learned counsel for the private respondents, namely the fifth respondent would submit that the petitioners in this writ petition have no *locus standi* to challenge the patta granted in favour of them. He would further submit that originally an extent of 135 acres of Nanjai and Punjai lands in S.No. 727/2B at Lempalakudi village was owned by one Ekammai Achi, W/o.Kumarappa Chettiar. Inam abolition proceedings were also initiated and after due enquiry, the lands belonging to her were taken over by the Government.

12.The said action was challenged by her before the Sub Court, Pudukkottai by filing an appeal in I.T.C.M.A.No.37 of 1974, which was allowed on 25.07.1975 by setting aside the take over of the land by the Government. Thereafter, the said Ekammai Achi was issued with patta in respect of S.F.No. 966/23. The said Ekammai Achi had sold the land to the fifth respondent and his family members in the year 1983. By notification dated 14.10.1988, the Government had classified the lands in S.F.No.966/23 as Natham land, as it was fit for house site and hence, the petitioners' family were issued with patta in respect of S.F.No.966/23. Since the petitioners have purchased the land even



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before it has been classified as Natham lands, it cannot be said that patta in respect of Natham land should not be granted for a larger extent.

13. In the interregnum, the fourth respondent had sub-divided the land in S.F.No.966/23 as S.F.Nos.966/30 to 966/35 and issued pattas individually in favour of the respondents 5 to 11. The petitioners have initially raised objections along with other relatives sought patta in their names and had approached various authorities to cancel the patta granted in favour of the private respondents. When a show cause notice was issued calling upon the private respondents, they had initially filed a suit in O.S.No.11 of 2004, challenging the issuance of such show cause notice before the District Munsif Court, Thirumayam. The said suit was disposed of with a direction to the private respondents to submit their explanations before the third respondent by producing oral and documentary evidence. Hence, the private respondents had appeared before the third respondent and explained their stand. The third respondent after verifying the various documents produced before him had held that the patta granted in favour of the private respondents were correct and closed the proceedings. Being



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aggrieved against the same, the petitioners have approached the second respondent, who had also rejected the claim of the petitioners.

14.He would also submit that the petitioners have instituted a suit arraying the revenue authorities as defendants along with one Karuppiah and sought to challenge the patta granted in favour of the private respondents. The said suit was dismissed, against which an appeal suit was preferred and the same has also been dismissed. Against the said judgment and decree, the petitioners have filed a second appeal and the same is pending on the file of this Court.

15.According to him, the petitioners have approached various forum and are trying to manipulate things to get patta in their names by suppressing various materials. He would submit that the petitioners had initially filed a writ petition in W.P.(MD) No.7382 of 2006 seeking for a direction to remove the encroachments by alleging that the possession of the private respondents are by way of an encroachment. A direction was issued by this Court to the President of the Lempalakudi village panchayat to remove the encroachments in accordance with



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law. Pursuant to the said order, the President of said village panchayat had passed an order directing the removal of the alleged encroachment.

16.The fifth respondent herein had filed a writ petition in W.P.(MD) No. 5973 of 2007 before this Court. After hearing the respective parties, this Court, after taking into consideration the grant of patta in favour of the petitioners, had directed the President of the village panchayat to receive explanations from the private respondents by treating the order of removal of encroachment as a show cause notice. Thereafter, the private respondents have submitted their detailed explanations along with relevant records and after consideration of the entire facts and materials placed before him, the President of the village panchayat had come to the conclusion by his order dated 10.09.2008 that the patta has been issued and there is no truth regarding the encroachment. These facts have been omitted by the petitioners and they have come to this Court with unclean hands. Hence, the writ petition should be rejected on this ground alone.

17.He would further submit that the private respondents had come to in possession and title of the property in S.F.No.966/23, which was later sub-divided



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as S.F.Nos.966/30 to 966/35, based upon the sale deed executed by Ekammai Achi, who was the owner of the property. The said land has been classified as Natham land and Natham patta has also been issued in favour of the private respondents. When that be so, the claim of the respondents 1 to 4 that these lands are Poramboke lands is itself a false one. Hence, he would submit that the writ petition as filed by the petitioners is wholly by suppression of material facts to mislead this Court and on that ground seeks to dismiss this writ petition.

18.Mr.V.OM.Prakash, learned Government Advocate for the respondents 1 to 4 relying upon the counter filed by the fourth respondent would contend that the revenue authorities after considering various materials available on record had only passed orders that is sought to be impugned in this writ petition. He would submit that when the land has been classified as Natham land on 14.10.1988, the Special Tahsildar (Natham) by following the provisions of Natham land Survey Scheme had issued notices in Form-1 and Form-3, after which only patta was granted in favour of the private respondents in Form-4. No one has challenged the same by way of filing an appeal in Form-7 within the prescribed time period.



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Hence, the grant of patta under the Natham Scheme in favour of the private respondents cannot now sought to be questioned.

19.He would also submit that the Government Orders relied upon by the learned counsel for the petitioners do not relate to grant of patta in Natham lands. He would further submit that the Government Orders relate to grant of patta to the encroachers in un-objectionable Government Poramboke lands. The said Government Order should not be read out of context to be made applicable to Natham lands. Natham pattas are granted to the individuals based on their possession either by way of purchase or based on their possession, which could be supported by appropriate documents including sale deeds in their favour. Hence, he would submit that the claim of the petitioners is for some extraneous reasons and sought this Court not to interfere with the orders passed by the second respondent.

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



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21.The petitioners have instituted various litigations seeking various reliefs. They had originally filed W.P.(MD) No.7382 of 2006 before this Court claiming that they are the encroachers of the Government land and had obtained an order. They had also unsuccessfully filed a civil suit in O.S.No.121 of 2008 seeking for declaration to declare that the decree obtained by one Rama Karuppiah, namely the fifth respondent herein is null and void, as the said suit has been filed in collusion with the respondents 1 to 4 herein. In the said suit, they had made an allegation that the property in S.F.No.966/23 is a Poramboke land.

22.The suit filed by the petitioners in O.S.No.121 of 2008 after contest had been dismissed, against which he had preferred A.S.No.36 of 2010, which also came to be dismissed, against which he has preferred S.A.(MD) No.56 of 2017 before this Court. This Court had not admitted the said second appeal till date and it is in the stage of 'notice of motion'.

23.A perusal of the affidavit filed by the writ petitioners in this writ petition, it could be seen that the petitioners had not stated the aforesaid



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proceedings mentioned supra. Hence, I am of the view that the petitioners had approached this Court by suppressing various judicial proceedings while preferring this writ petition tantamounting that the petitioners have not approached this Court with clean hands. That apart, the land has been classified as Natham land even in the year 1988 and patta has also been issued in favour of the private respondents during the Natham Settlement Scheme. The petitioners claim to be the residents of the village and it is very surprising to know that they were not aware of such Natham proceedings in the said village. That apart, when patta has been granted in favour of the private respondents as early as in the year 1988, the same had remained unchallenged.

24.It is also an admitted case of the petitioners that the private respondents are in possession of the property. I have also perused the judgment and decree of the trial Court in O.S.No.121 of 2008. From the said judgment and decree, it could be seen that the petitioners have examined themselves in chief and thereafter have not presented themselves for cross-examination in spite of the case being listed on various dates. This itself would suffice to show that the petitioners are trying to use this judicial forum for some extraneous reasons and



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considerations. I am also of the view that the respondents 2 and 3 have considered the case in its proper perspective and have rejected the claim of the petitioners.

25.In fine, the Writ Petition fails and is dismissed. Even though I am inclined to award cost against the petitioners, considering their old age, I do not propose to award cost. The interim order granted by this Court in M.P.(MD) No.2 of 205 in W.P.(MD) No.14136 of 2015 dated 07.08.2015 is vacated. Consequently, M.P.(MD) No.2 of 2015 in W.P.(MD) No.14136 of 2015 is closed and M.P.(MD) No.3 of 2015 in W.P.(MD) No.14136 of 2015 is allowed. However, there shall be no order as to costs.

Speaking : Yes / No
Internet : Yes / No
Index : Yes / No
NCC : Yes / No
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22.02.2023

To

1.The District Collector,
Pudukottai District,
Pudukottai.

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- 2.The District Revenue Officer,
Pudukottai.
- 3.The Revenue Divisional Officer,
Pudukottai.
- 4.The Tahsildar,
Thirumayam Taluk,
Pudukottai District.



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K.KUMARESH BABU, J.

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order made in
W.P.(MD) No.14136 of 2015

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