



W.P.(MD)Nos.21133 and 21134 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)Nos.21133 and 21134 of 2021

Ramzan

... Petitioner in
W.P.(MD)No.21133 of 2021

Rasool Mohideen Fatima,
Represented by her General Power Agent
Umara Banu

... Petitioner in
W.P.(MD)No.21134 of 2021

Vs.

- 1.The Secretary to Government,
Revenue [Urban Land Ceiling] Department,
Chepuak, Chennai.
- 2.The Principal Commissioner and Commissioner
of Land Reforms cum Urban Land Ceiling,
Chepauk, Chennai-5.
- 3.The Assistant Commissioner,
(Urban Land Ceiling),
Tirunelveli,
Presently situated at office of
the Assistant Commissioner,
Urban Land Tax, Madurai.
- 4.The Renveue Divisional Officer,
Tirunelveli.



W.P.(MD)Nos.21133 and 21134 of 2021

5.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli.

... Respondents in both cases

PRAYER in W.P.(MD)No.21133 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to modify the entry made as urban surplus land in revenue record in respect of the 5 cents situated in S.No.26 situated in Melapalayam Village, Tirunelveli District into patta land and issue patta to the petitioner for the same.

PRAYER in W.P.(MD)No.21134 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to modify the entry made as urban surplus land in revenue record in respect of the 15 cents situated in S.No.26 situated in Melapalayam Village, Tirunelveli District into patta land and issue patta to the petitioner for the same.

(In Both Writ Petitions):

For Petitioner : Mr.H.Arumugam

For Respondents : Ms.S.Jeya Priya
Government Advocate

COMMON ORDER

These Writ Petitions have been filed for issuance of Writ of Mandamus directing the respondents to modify the entry made as urban surplus land in the revenue records with respect to the subject properties in Survey No.26 at Melapalayam Village, Tirunelveli District.



W.P.(MD)Nos.21133 and 21134 of 2021

WEB COPY 2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. The case of the petitioners is that the petitioner in W.P.(MD)No.21133 of 2021 purchased the land to an extent of 5 cents through a registered sale deed, dated 09.10.2020. The petitioner in W.P.(MD)No.21134 of 2021 purchased the land to an extent of 15 cents through a registered sale deed, dated 06.07.2018. The further case of the petitioners is that the predecessor in title is one Sankaralingam Pillai and his lands to an extent of 9.63 acres were declared as surplus lands through the proceedings initiated by the respondents 2 and 3 under the Tamil Nadu Urban Land (Ceiling and Regulation), Act 1978 (hereinafter referred to as the Act). The possession of these lands was never taken over and in the meantime, the Repealing Act came into effect and the proceedings itself lapsed.

4. It is stated that one of the purchasers from the said Sankaralingam Pillai, pertaining to the same Survey Number viz., Survey No.26 filed W.P.(MD).No.3998 of 2012 and 6444 of 2013 seeking for mutation of patta and to forbear the respondents from taking the physical possession and these Writ



W.P.(MD)Nos.21133 and 21134 of 2021

Petitions were dealt with along with other connected Writ Petitions and a common order was passed on 18.02.2014. This Court allowed all the Writ Petitions and directed the first respondent to pass orders on the request made by the petitioners seeking for issuance of patta and made it clear that the request will not be rejected on the ground that the lands have been vested with the Government under the Act.

5. The above order was taken on appeal. While filing the appeal in W.A.(MD)No.511 to 521 of 2019, the property in Survey No.26 alone was not put to challenge and thereby, the order passed by the learned Single Judge became final. Even with respect to the other Writ Petitioners, the Division Bench of this Court by an order, dated 12.06.2019 dismissed all the Writ Appeals.

6. Yet another Writ Petition was filed by the same petitioner in W.A.(MD).No.364 of 2019 and 25438 of 2018 seeking for conversion of classification of lands from surplus into patta lands. These Writ Petitions were dismissed by an order, dated 17.06.2019. This order was taken on appeal in W.A.(MD).No.1211 of 2019 and the Division Bench of this Court vide order dated 13.11.2019, held as follows:



W.P.(MD)Nos.21133 and 21134 of 2021

WEB COPY

“6. In our considered view, the petition is not a second round of litigation, because the issue in the earlier round of litigation was challenging the validity of the proceedings initiated under the Act declaring the land owned by the appellant as surplus. Now the appellants seeks for consequential relief. Therefore, in our opinion, this writ petition could not have been dismissed on the ground that this is a second round of litigation.

7. The learned Government Advocate appearing for the respondents would submit that the respondents have filed Special Leave Petition against the judgment, dated 12.06.2019 passed by the Hon'ble Division Bench. However, there is nothing on record to show that Special Leave Petition has been filed or pending before the Hon'ble Supreme Court. As noticed above, the writ petition was allowed on 18.02.2014 and the respondent did not take any effective steps to challenge the order immediately, but there was a delayed challenge and that was also ended in failure



W.P.(MD)Nos.21133 and 21134 of 2021

WEB COPY

by judgment, dated 12.06.2019. Therefore, necessarily the respondent should process the request made by the petitioner, obtain appropriate orders from the respondents 1 and 2 and effect necessary changes. However, whatever proceedings are initiated by the respondents would be subject to the outcome of the Special Leave Petition stated to have been filed before the Hon'ble Supreme Court.

8. In the light of the above, this writ appeal is allowed and the order passed in the writ petition is set aside and a direction is issued to the fourth respondent to submit necessary proposal through proper channel for rectification of entries in the revenue records and place the same before the second respondent within a period of six weeks from the date of receipt of a copy of this order. Upon receipt of the same, the second respondent shall consider and pass appropriate proposal to the first respondent for issuing appropriate orders. This direction shall be complied by the second respondent within a period of eight weeks from the date on which, the proposal is received



W.P.(MD)Nos.21133 and 21134 of 2021

WEB COPY

from the Tahsildar through proper channel. The first respondent is directed to consider the proposal and pass appropriate orders within a period of twelve weeks therefrom. Once again, we make it clear that all the proceedings initiated by the respondents will be subject to the outcome of the Special Leave Petition stated to have been filed before the Hon'ble Supreme Court. No costs."

7. It is further stated that a Writ Petition in W.P.(MD).No.5691 of 2019 was filed before this Court by placing reliance upon the order passed in W.P.(MD).No.3998 of 2012 etc., and the said Writ Petition was allowed by an order, dated 23.01.2020 and a direction was given to consider the claim of the petitioner to issue patta.

8. The petitioners in these Writ Petitions by relying upon the above orders want them to be treated on par with the other petitioners, since the issue involved in this is the same and the subject property viz., Survey No.26 is also the same.



W.P.(MD)Nos.21133 and 21134 of 2021

WEB COPY

9. The main defence that has been taken by the learned Government Advocate appearing on behalf of the respondents is that the order passed by the Division Bench in W.A.(MD).No.1211 of 2019 was put to challenge before the Apex Court and the Special Leave Petition was dismissed. Thereafter, the Review Application was filed before this Court and the same is pending in Review Application No.30 of 2023. The learned Government Advocate, therefore, submitted that till this review application is disposed of, the request made by the petitioner cannot be considered.

10. The issue involved in both these Writ Petitions is squarely covered by the earlier order passed by this Court in W.P.(MD).No.5691 of 2019. This order, in turn, had taken note of the earlier orders passed by this Court. In view of the same, the effect of these orders will also enure in favour of the petitioners. Hence, the first respondent has to necessarily pass orders and these orders can be subjected to the final result in the review application pending in Review Application No.30 of 2023.

11. In the result, these Writ Petitions are disposed of, with a direction to the first respondent to deal with the representations, dated 21.04.2021 and the



W.P.(MD)Nos.21133 and 21134 of 2021

entry shall be modified in respect of the land in Survey No.26 for an extent of 5 cents and 15 cents respectively at Melapalayam Village, Palayamkottai Taluk, Tirunelveli District. This process shall be completed by the first respondent within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be a further direction to the fifth respondent to consider the claim made by the petitioners for patta with respect to the subject property and the fifth respondent shall take into consideration the order to be passed by the first respondent and shall pass consequential orders within a period of six (6) weeks thereafter. It is made clear that the request of the petitioners for modification of the entries and for grant of patta, cannot be rejected on the ground of proceedings initiated under the Urban Land Ceiling Act or on the ground of pendency of the review in Review Application No.30 of 2023.

12. Both the Writ Petitions are allowed with the above directions. No costs.

20.11.2023

NCC:yes/no
Index:yes/no
Internet:yes/no

Nsr

9/11



W.P.(MD)Nos.21133 and 21134 of 2021

To

WEB COPY

- 1.The Secretary to Government,
Revenue [Urban Land Ceiling] Department,
Chepuak, Chennai.
- 2.The Principal Commissioner and Commissioner
of Land Reforms cum Urban Land Ceiling,
Chepauk, Chennai-5.
- 3.The Assistant Commissioner,
(Urban Land Ceiling),
Tirunelveli,
Presently situated at office of
the Assistant Commissioner,
Urban Land Tax, Madurai.
- 4.The Renveue Divisional officer,
Tirunelveli.
- 5.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli.



WEB COPY



W.P.(MD)Nos.21133 and 21134 of 2021

N.ANAND VENKATESH, J.

Nsr

W.P.(MD)Nos.21133 and 21134 of 2021

20.11.2023