



W.P(MD)No.20239 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20239 of 2016 and
WMP(MD) No.14507 of 2016

1.Palaniyandi
2.M/s.Rubesh & Co.,
Partnership Firm,
Rep by its Managing Partner,
K.Palaniyandi,
Office at No.6, Rajaram Salai,
K.K.Nagar, Trichy.

...Petitioner

Vs.

1.The District Collector,
Pudukkottai.

2.The District Revenue Officer,
Pudukkottai.

3.The Revenue Divisional Officer,
Illuppur,
Pudukkottai.

4.The Assistant Director,
Department of Animal Husbandry,
Alathur Road,
Iluppur Post & Taluk,



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Pudukkottai District.

5.The Tahsildar,
Iluppur Post & Taluk,
Pudukkottai District.

6.Maryiandi

7.The Secretary,
Department of Animal Husbandry and Fisheries Department,
Nandanam,
Chennai.

...Respondents

(R7 is suo motu impleaded in this writ petition as per the order of this Court, dated 09.06.2023 by BPJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents removing the fencing put up by the petitioner for his patta land comprised in S.No.Nos.79,80,81,82,84 and 85 of Koodalur Village, Illuppur Taluk, Pudukkottai District.

For Petitioner	: Mr.P.Ganapathi Subramanian
For R1 to R5 & R7	: Mr.M.Sarangan Additional Government Pleader
For R6	: Mr.D.Rameshkumar

ORDER

The petitioner, a retired Engineer is owning lands in S.Nos.79, 80,81,82,84 & 85 to an extent of 55 acres and within the



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55 acres, the land in S.No.84/8 and 84/10, are classified as grazing land poramboke measuring to an extent of 0.22.5 Ares. Since these grazing lands lies within the petitioner's patta land, the petitioner requested the first respondent to exchange it for convenient enjoyment of his property. Therefore, the petitioner has made a representation by referring the Board Standing order 26A and the Government Order in G.O.Ms.NO.186, Department of Animal Husbandry and Fisheries, dated 11.12.2001, he made a request to the respondents to exchange the land in Survey Nos.84/8 and 84/10, which is lying in middle of the petitioner's farm. The petitioner is also willing to offer twice the value of the land in Survey Nos.84/8 and 84/10. That apart, he is also ready to pay the developmental charges for developing the land and to preserve it as grassing land. However, the offer made by the petitioner has not been considered by the respondents. The fourth respondent entered into the petitioner's land and tried to remove the fence. Therefore, the petitioner has approached this Court.



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2.Today(09.06.2023), when this writ petition is taken up for hearing, the learned counsel appearing for the petitioner by referring the Government Order in G.O(Ms) No.201, Revenue and Disaster Management Department (land Disposal Wing LD3(1) Section, dated 10.05.2022 submits that the Government has issued fresh guidelines as replacement of the Revenue Standing orders 26A for land exchange(not involving water course).

3.The learned Additional Government Pleader by referring G.O.(Ms).No.75, dated 28.05.2007 submits that these grassing lands cannot be exchanged to a private person. Copy of the Government order has also been produced before this Court.

4.Heard the learned counsel on either side. The objections of the learned Government Pleader is recorded.

5.The petitioner has offered to pay twice the value of the the Government lands, which are lying in middle of his property and



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also prepared to pay necessary expenses for converting the land and to preserve it as a grassing land. In order to substantiate his case, the petitioner has relied upon the Government in G.O(Ms) No.201, Revenue and Disaster Management Department (Land Disposing Wing LD 3(1)Section dated 10.05.2022 and the relevant paragraphs in the above Government order is extracted as under:-

RULES FOR REPLACEMENT OF EXISTING RSO 26A

The exchange of land may be given for agricultural and non-agricultural purposes. Exchange of land is not a matter of right and is to be undertaken to achieve public policy objectives, including consolidation of Government land, unlocking of private patta land for better use, etc.,

1) General conditions:

- i. The exchange of land is permissible for consolidation of the holdings of the applicant, or for access to the patta land. The extent of land to be exchanged will be limited to 30% of the landholdings (block of land in relation to which the proposal for exchange has been



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made) in possession of the applicant with clear title.

- ii. There shall be no limit on the total extent or number of parcels of lands to be exchanged, subject to the above limit of 30%.
- iii. Title: The patta land offered must be with clear title and possession in favour of the applicant without any encumbrances, encroachments, litigation or dispute. The land given by the applicant as open space reservation or under any other requirements to the local body or any other public authority cannot be considered as patta land for exchange.
- iv. In case the exchange involves lands in sensitive zones like buffer zones, Hill Area Conservation Authority, Elephant/Tiger Corridors, Eco Sensitive Zones, the proposal will be routed through Forest Department.

2) Land exchanged for consolidation of patta lands:

- i. Where porambores, partially or fully locked inside a block of patta lands of the applicant, are sought to be exchanged, the patta land must be given within the same block of lands.
- ii. The patta lands should be with access to the road of the highest category abutting the block of lands. Illustratively, if the block of lands has access to a Major District Road(MDR) and State Highway (SH), the



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exchanged patta land should have access to the State Highway.

iii. The patta lands will be valued as per their guideline value. For Government lands the guideline value will be fixed as per the norms applicable to fixation of Guideline Value of Poramboke Lands. For cases where the guideline values are the same, the extent of lands to be exchanged will also be the same, the extent of lands to be exchanged will also be the same. In case the guideline value is different for offered patta land and concerned poramboke lands, the following methodology will be adopted.

a) When Guideline value of Government land is lower than patta land.

Irrespective of the difference in valuation, the patta land for exchange has to be equal to the Government land extent offered for exchange.

b) When Guideline value of Government land is higher than patta land.

In this case, there can be two methods (either of which can be used based on individual circumstances

i) Patta lands is offered which is equal in extent to Government land and the price difference is given as money.



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- ii) More extent of patta land is taken for exchange so that land values of patta and poramboke are equalized.
- iv. The single guideline value for Government lands is adopted on the principle that consolidation of government and private lands both is achieved in a win-win formula.
- v. In case it is not possible to provide patta land within the same block, the alternate land must be given preferably within 1 km of the overall boundary of private land being consolidated, with frontage to the same or higher category of road. Illustratively, if the porambokes are in a block having access to an Major District Road, the exchanged patta land must have access to an major District Road, State Highway or National Highway. It should be ensured that such exchanged lands are fit to be used by Government for any future use and there is no hindrance due to access issues or any other issue like being an unstable rocky outcome water inundation possibility or any other such contingencies.
- vi. In case there is no possibility of exchange within the block or within 1km from the block, and the patta land is more than 1 km from the block of land then double guideline value for Government land and single guideline value of patta land will be used for exchange.
- vii. The double guideline value is adopted on the principle that



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the exchange is now equivalent to a relinquishment and an assignment of Government land, which is normally done at double the guideline or market value.

6.The Government have decided to accept the recommendations of the Committee to streamline the procedures involved in the exchange of land (not involving water course) and accordingly order the replacement of the existing Revenue Standing Order 26A concerned with the exchange of land (not involving water course) with the rules as detailed in para 5 above.”

6.Considering the facts and circumstances of this case, **the Secretary, Department of Animal Husbandry and Fisheries Department, Nandanam, Chennai** is *suo motu* impleaded as a respondent to this writ petition. The learned Government Pleader is directed to take notice for the newly impleaded respondent. This writ petition is disposed of with a liberty to the petitioner to make a fresh representation to the Secretary, Department of Animal Husbandry and Fisheries Department, within a period of four weeks from the date of receipt of a copy of this order, along with the



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Government Order in G.O.Ms.NO.186, Department of Animal Husbandary and Fisheries, dated 11.12.2001 and the Government in G.O(Ms) No.201, Revenue and Disaster Management Department (Land Disposing Wing LD 3(1)Section dated 10.05.2022. The Secretary to Government/the newly impleaded respondent shall consider the representation of the petitioner, in the light of the above Government Orders and as per the guidelines issued by the Government as a replacement for Revenue standing order 26A for land Exchange and take a decision as expeditiously as possible preferably within a period of sixteen weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

09.06.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes
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B.PUGALENDHI, J.

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