



W.P.(MD)No.7046 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.7046 of 2016

1. Vittalán Póthy
2. Nagarajan Póthy
3. Manjunathan Póthy
4. Mukkiyapranan
5. Harikrishnan
6. Srinivasan
7. Lakshmi

Petitioners 1 to 7 are represented
by their Power of Attorney

Haridass,
S/o.Sankaranpillai,
No.7/25, Kaniyanvilai,
Mandakkadu Post – 629 252,
Kanyakumari District.

... Petitioners

versus

1. The Personal Assistant to
Commissioner/Principal Secretary,
Survey and Settlement,
Chepauk, Chennai – 600 005.
2. The District Collector,
Kanyakumari District at
Nagercoil.



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3. The Tahsildar,
Agasteeswaran Taluk at
Nagercoil, Kanyakumari District.

4. The Commissioner of Land
Administration Department,
2nd Floor, Ezhilagam,
Chepauk, Chennai.
(R4 is suo motu impleaded vide
order dated 06.10.2023)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the 3rd respondent in Na.Ka.No.A4/38197/2010, dated 07.11.2013 quash the same and consequently, direct the 3rd respondent to grant patta in the name of the petitioners with regard to 14 cents of land in R.S.No.D6/37 in Nagercoil Village, Agasteeswaram Taluk, Kanyakumari District, pursuant to the decree passed in Second Appeal No.833 of 1990, dated 01.03.2002 on the file of this Court.

For Petitioners : Mr.R.J.Karthick

For Respondents : Mr.G.Suriya Ananth,
Government Advocate

ORDER

The petitioners are legal heirs of one Rajammal, W/o.Venkatraman Pothy. The said Rajammal has purchased a property



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in R.S.No..D6/35 of Nagercoil to an extent of 6 cents and

R.S.No.D6/37 to an extent of 1 ½ cents. But, the land in R.S.No.D6/37

is classified as Sandhu, a Government Poramboke land. Therefore, she

made a request to the Tahsildar, Nagercoil, to reclassify the land in

R.S.No.D6/37 and to grant patta for those properties. However, the

said request has been rejected by the Tahsildar, Nagercoil. Therefore,

she has filed a Civil Suit in O.S.No.1020 of 1982 before the Additional

District Munsif Court, Nagercoil, which was dismissed. Therefore, she

filed an appeal suit in A.S.No.62 of 1999 before the Sub Court,

Nagercoil and the same was also dismissed, confirming the Judgment

and Decree passed by the trial Court. Aggrieved against the same, she

preferred a Second Appeal in S.A.No.833 of 1990 and this Court, by

Judgment and Decree dated 01.03.2022, allowed the second appeal, by

setting aside the decree passed by the trial Court and the First Appellate

Court. This Court has also declared that the said Rajammal is entitled

for 7 ½ cents as per the title documents. After the demise of the said

Rajammal, the petitioners have inherited the property and sold 6 cents



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of land in R.S.No.D6/35 to one Daulat Singh and Dasarath Singh, by registered sale deeds dated 24.01.2006 and 07.02.2006. Thereafter, based on the said decree, the petitioners have once again approached the 3rd respondent/the Tahsildar, Agasteeswaram Taluk, Nagercoil and requested to issue patta for the land to the extent of 1 ½ cents in R.S.No.D6/37. The 3rd respondent, by his proceedings dated 07.11.2013, rejected the request of the petitioners. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioners submits that as per the decree passed in S.A.No.833 of 1990, the petitioners are entitled to claim right over the property to the extent of 1 ½ cents and the 3rd respondent is duty bound to issue patta based on the decree in S.A.No.833 of 1990. He further submits that in the earlier round of litigation, this Court, by order dated 29.08.2013 in W.P.(MD)No.14498 of 2013, had directed the Tahsildar, Agasteeswarn Taluk, Nagercoil, to consider the petitioners' representation dated 17.07.2013 for grant of



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patta. Even after the direction of this Court, this impugned order has been passed.

3. The learned Government Advocate appearing for the respondents, by referring to the counter affidavit filed by the 3rd respondent/the Tahsildar, Agasteeswarn Taluk, Nagercoil, submits that the land in D6/37 is classified as Sandhu in the settlement records and therefore, necessary proposals have been made for reclassification of land as Nilaviyal Padhai. He further submits that this pathway is used by pattadars of R.S.No.D6/35, D6/37 and not by any other persons. He further submits that the Commissioner of Land Administration Department, Chennai, is the competent authority to reclassify the land.

4. Considering the said submissions, this Court *suo motu* impleads the Commissioner of Land Administration Department, Chennai, as 4th respondent in this writ petition and directs the learned Government Advocate to take notice for the newly impleaded



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respondent.

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5. Admittedly, the petitioners' mother Rajammal has already filed a Civil Suit with regard to the subject properties and the issue went upto the Second Appeal and this Court, by Judgment and Decree dated 01.03.2022, allowed the second appeal and declared that the said Rajammal is entitled for 7 ½ cents as per the title documents. Based on the said decree, the petitioners made a request to the Tahsildar, Agasteeswarn Taluk, Nagercoil, for reclassification of the land in R.S.No.D6/37 to an extent of 1 ½ cents and also for grant of patta in their favour. But, the Tahsildar, Agasteeswarn Taluk, Nagercoil, is not the competent authority to reclassify the said land. The competent authority is the Commissioner of Land Administration Department, Chennai.

6. Therefore, this writ petition is allowed, setting aside the order passed by the 3rd respondent in Na.Ka.No.A4/38197/2010, dated



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07.11.2013 is set aside. The petitioners are at liberty to submit a fresh representation to the Commissioner of Land Administration, Chennai, for reclassification of land in R.S.No.D6/37, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the Commissioner of Land Administration, Chennai, shall take a decision on the petitioners' representation for reclassification of land in R.S.No.D6/37, based on the decree passed by this Court in S.A.No.833 of 1990 and pass necessary orders directing the Tashildar, Agasteeswaram Taluk, Nagercoil to issue patta for the land in R.S.No.D6/37, in favour of the petitioners, within a period of 12 weeks from thereon. No costs.

06.10.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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To



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B.PUGALENDHI, J.

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