



W.P(MD)No.28833 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28833 of 2022

Parameshwaran

... Petitioner

Vs

1.The Principal Secretary /
Commissioner of the Land Administration,
Chepauk,
Chennai – 5.

2.The Settlement Officer (South),
Commissioner and Director of Survey and Settlement Office,
Chepauk,
Chennai – 5.

3.The District Collector,
Collectorate at Nagercoil,
Kanyakumari District.

4.The District Revenue Officer,
District Revenue Office,
Kanyakumari District.

5.The Tahsildar,
Tahsildar Office,
Thovalai Taluk,
Kanyakumari District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to issue patta for the land in New Survey No. 252/1 (Old Survey No. 902/175-902/218) to an extent of 85 cents, Esanthimangalam Village, Thovalai Taluk, Kanyakumari District in the light of the civil Court decree dated 05.02.1987 passed in O.S.No.410 of 1982 before the Additional District Munisf Court, Nagercoil by considering petitioner's representations dated 17.08.2020, 14.10.2020 and 13.03.2021 within a time stipulated by this Court.

For Petitioner : Mr.S.Vashik Ali
for Mr.R.Murugan

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The only question that calls for consideration is whether the respondents can be directed to issue patta for the petition mentioned land. The stand of the learned Special Government Pleader is that the property appears to be a water body and that therefore even if there is any decree of the civil Court, it has to be disregarded.

3.I carefully went through the materials enclosed in the typed set of papers. It is seen that the writ petitioner's father / S.Perumalpillai filed O.S.No.



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410 of 1982 on the file of Additional District Munsif Court, Nagercoil for declaration and permanent injunction against the Government of Tamil Nadu.

It was a contested case. The trial Court framed as many as eight issue. 31 documents were marked on the side of the plaintiff. After considering the entire materials on record, the learned trial Court decreed the suit as prayed for on 05.02.1987. The first appeal filed by the Government had suffered dismissal. The petitioner's father also filed execution petition and it ended in his favour.

4. When the petitioner applied for issuance of patta based on the said decree, inspection was conducted and the Tahsildar had given a report that Survey No.252/1 is under cultivation and Survey No.252/3 is a water body. In these circumstances, when the writ petitioner is having decree from the jurisdictional civil Court in his favour, the authorities are obliged to comply with the same. It is true that the Commissioner of Land Administration is the competent authority to re-classify the land. But then that is an internal distribution of administrative business. The Government of Tamil Nadu through the District Collector was shown as the defendant and decree was passed against the Government. The Commissioner of Land Administration will have to necessarily make changes in tune with the eventual decree.



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5. In this view of the matter, the first respondent is directed to make appropriate reclassification of the revenue record within a period of three months from the date of receipt of a copy of this order. Based on the same, the fifth respondent shall issue patta in favour of the writ petitioner as prayed for in respect of Survey No.252/1. This writ petition is allowed on these terms. There shall be no order as costs.

23.01.2023

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

MGA

To

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G.R.SWAMINATHAN, J.

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