



WEB COPY



W.P. No.1966 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P. No.1966 of 2020

and W.M.P.No.2303 of 2020 in W.P.No.1966 of 2020

R.Arul

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep. By its Secretary to Government,
Revenue Department, Fort St. George,
Chennai – 9.

2.The District Collector,
Kancheepuram District.

3.The District Revenue Officer,
Kancheepuram District.

4.The Revenue Divisional Officer,
Kancheepuram District.

5.P.Rajasekaran

6.Vedanayagi

7.Uttara

8.T.S.Mani

9.K.Munusamy

10.R.Raja

11.Chithra

12.K.Swaminathan

13.P.Venkataraman

14.Milton

15.S.Paramanantham

16.SL.V.Anitha

.. Respondents



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Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the entire records relating to the final order in Na.Ka.No.7561/2018 M1 dated 02.02.2019 passed by the second respondent and quash the same as illegal and contrary to the condition of assignment of Panchamin lands and consequently direct the respondent no.2 to take necessary action to restore the petitioner's panchamin lands comprised in Survey No.506/1 to an extent of 99 cents, Nandivaram Village, Kuduvancheri, now Chengalpet District from the illegal encroachment of the respondent nos.5 to 16 and further hand over possession of the same to the petitioner in accordance with law.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.C.Selvaraj,
Addl. Govt. Pleader
for R1 to R4
Mr.M.Rajasekhar for R9 & R10

No appearance for R5, R6,
R8, R11, R13 to R15

R7 & R12 – Left/Unserved



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ORDER

(Order of the Court was made by **M.Sundar, J.**)

This common order will govern captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) and captioned 'Writ Miscellaneous Petition' (hereinafter 'WMP' for the sake of brevity) thereat.

2. In the hearing today, Mr.R.Venkatesan, learned counsel for writ petitioner, Mr.C.Selvaraj, learned Additional Government Pleader for respondents 1 to 4 (official respondents), Mr.M.Rajasekhar, learned counsel for respondents 9 and 10 (Thiru.K.Munusamy, S/o. Thiru.Krishnan and Thiru.R.Raja, S/o.Thiru.Rathinam) are before us.

3. 'Lands comprised in Survey No.506/1 in Nandivaram Village, Chengalpet Taluk, Kancheepuram District' (hereinafter 'said lands' for the sake of convenience and clarity) admeasuring 0.99 cents (0 Acre and 99 cents to state with specificity) or thereabouts, according to the writ petitioner are panchami lands. The writ petitioner's complaint is that there has been alienation of panchami



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lands i.e., said lands contrary to/in breach of the terms of assignment. Writ petitioner sent a representation dated 09.01.2012 in this regard, alleging inaction, came to this Court by way of a earlier writ petition being W.P.No.18747 of 2012 and a Hon'ble Single Judge of this Court disposed of the earlier writ petition by order dated 25.01.2018 inter-alia directing R2/District Collector to dispose of the 09.01.2012 representation within a period of eight weeks. Pursuant to said directive, R2/District Collector took up the said representation (representation dated 09.01.2012) and disposed of the same in and by an order dated 02.02.2019 bearing reference Na.Ka.7561/2018 M1 inter-alia accepting the recommendation of the jurisdictional Revenue Divisional Officer (RDO) that the representation can be disposed of in the negative as the writ petitioner has not provided requisite details/documents. This '02.02.2019 order of R2' shall hereinafter be referred to as 'impugned order' for the sake of convenience and clarity.

4. Assailing the impugned order, captioned WP has been filed. In the captioned WP, Hon'ble Predecessor Bench made proceedings/orders on 26.02.2024 and a scanned reproduction of the same is as follows:



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and

W.M.P.Nos.2302 & 2303 of 2020

S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

The counter filed by the Revenue Divisional Officer is insufficient to form an opinion whether the subject land is a Panchami land or not.

2. The second respondent District Collector, Kancheepuram District, is directed to verify the revenue records to ascertain whether the subject land is a Panchami land or not. If no records are available in the Collectorate Office, verification is to be made in the Office of the Commissioner of Land Administration or in Achieves Department as the case may be. At the outset, verification is to be made whether the subject property is a Panchami land and if so, the nature of assignment made and the subsequent developments are to be identified.

3. The petitioner shall cooperate with the authority for conduct of inquiry by producing necessary documents.

4. Post the matter for further consideration on 08.03.2024.

[Signature]
[S.M.S.,J.]

[Signature]
[K.R.S.,J.]

26.02.2024

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7.5.2024

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5. Thereafter, there were two listings on 12.03.2024 and 26.03.2024 and a perusal of the proceedings made therein brings to light that the exercise before the District Collector pursuant to



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aforementioned 26.02.2024 directive of the other Hon'ble Division Bench is underway.

6. In the light of the narrative thus far, main WP was taken up with consent of counsel before us (putting in a safety valve qua rights of all respondents which will be set out infra) and we deem it appropriate to dispose of the captioned WP in the following manner:

6.1 Impugned order i.e., order dated 02.02.2019 bearing reference Na.Ka.7561/2018 M1 made by R2/District Collector is set aside;

6.2 Impugned order is set aside solely for the purpose of facilitating R2 to carry out the exercise de novo based on records which earlier Division Bench has directed the respondents to ferret out. In other words, it is made clear that the impugned order is not set aside on merits;

6.3 As would be evident from proceedings made by another Hon'ble Division Bench on 12.03.2024, it is clear that the private respondents



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have been permitted to participate in the proceedings before R2. Learned counsel for respondents 9 and 10 confirms that they have already sent a detailed objection, likewise all others including other respondents whose rights are likely to be affected shall be given an opportunity to show cause/send objections and this is the safety valve alluded to supra;

6.4 Whether R2 will hold personal hearing is at the discretion of R2, in other words, we neither direct R2 to hold personal hearing nor say personal hearing is not necessary. Necessity of personal hearing will depend on the trajectory the matter takes and therefore we say, it is at the discretion of R2;

6.5 Considering the facts and circumstances of the case, nature of the matter, the trajectory it has taken and the time that has consumed thus far, we deem it appropriate to direct R2 to continue and conclude the aforementioned proceedings as expeditiously as his business would permit but in any



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event within twelve weeks from today i.e., by
13.09.2024.

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6.6 The proceedings of R2 disposing of the 09.01.2012 representation shall be communicated to the writ petitioner, private respondents and all concerned under due acknowledgement within a fortnight from the date of conclusion of the proceedings;

6.7 Though obvious we make it clear that all the rights and contentions of all concerned are left open as we have not expressed any opinion or view on the merits of the matter. Though obvious status quo as of today will continue till the exercise before R2 is concluded.

7. Captioned WP is disposed of in the aforesaid manner. Consequently, captioned WMP is disposed of as closed. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
21.06.2024



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Index:Yes/No

Neutral Citation: Yes/No
mmi

To

- 1.The Secretary to Government,
Revenue Department, Fort St. George,
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- 2.The District Collector,
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**M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,
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