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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.06.2024

Pronounced on : 27.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.4983 of 2024

and W.M.P.Nos.5476, 9470, 5477 & 17117 of 2024

C.Periyasamy @ Thangavelu

.. Petitioner

Versus

1.The State of Tamil Nadu
Rep by its Principal Secretary to Government
Revenue Department (L.A1-2)
Fort St.George, Chennai – 600 009

2.The Principal Secretary cum Commissioner
of Land Administration
Chepauk, Chennai – 5

3.The District Collector
Collectorate, Namakkal District

4.The District Revenue Officer
Nammakkal & District

5.The Revenue Divisional Officer
Thiruchengode & Tk, Namakkal District

6.The Tahsildar
Thiruchengode Taluk, Namakkal District

7.The Sub Registrar
Sub Registrar Office
Thiruchengode & Tk, Namakkal District

8.The District Registrar



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District Registration Office
Namakkal Tk & District

9.R.Sathiyamurthy
10.R.Vijayakumar

11. Yareng Agro Private Limited
Rep by its Authorised Signatory, R.Balu M/A years
Son of Rangasamy
having registered office at
No.2/116, Kallupalayam, Pokkampalayam Village,
Sirumolasi Post, Thiruchengode Taluk
Namakkal District

(R11 impleaded vide Order dated .06.2024 made in
W.M.P.No.9470 of 2024 in W.P.No.4983 of 2024)

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents No.1-3 to conduct an enquiry based on the G.O. (Ms) No.1300 dated 30.04.1971 in view of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari), Act 1948 and to consequently to ensure the land which was assigned to the petitioner and other beneficiaries situated at Korakuttai, S.Eraiyamangalam, Thiruchengodu Sub-Registrar Office, Thiruchengodu Taluk, Namakkal District.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.A.Selvendran for R1 to R6
Special Government Pleader

Mr.P.Anandha Kumar for R7 & R8
Government Advocate

Mr.A.K.Sriram, Senior Counsel
for Mr.K.Narayanan for R9 & R10
Mr.V.Raghavachari, Senior Counsel
for Mr.M.Guruprasad



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ORDER

This writ petition has been filed for a direction to the respondents 1 to 3 to conduct an enquiry based on the G.O.(Ms).No.1300 dated 30.04.1971 in view of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and consequently assign the lands in favour of the petitioner.

2. Since, the subject property is sold to the impleading petitioner in W.M.P.No.9470 of 2024 by the respondents 9 and 10, this Court is of the view that the impleading petitioner is necessary for proper adjudication of this writ petition. Hence, the impleading petition is ordered, accordingly.

3. It is the case of the writ petitioner that S.Eraiyamangalam Village came under the Act 26 of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. G.Ramachandran had excessive lands and therefore, the lands were notified under the said Act. After the Act, the village was bifurcated into A-Erayamangalam and S-Erayamangalam. The acquired land came under the S-Erayamangalam. The petitioner and others have occupied the lands which were remained as unassessed Waste/Anadheernam and had been carrying out agricultural operations for their livelihood, since 1960.



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S.No	Name	Old S.No.	New S.No.	Extension in acres
1.	K.Periyamuthan S/o.Kandan	153/1	439/1	2.10
2.	K.Anil Kumar S/o.Kannadeen	153/1	442/2	1.95
3.	R.Boopathy S/o.Ramachandran	153/1	439/2	2.06
4.	N.Eswaramoorthy S/o.Nallappan	153/1	436/2	1.98
5.	R.Palanisamy S/o.Ramasamy	153/1	436/3	1.98
6.	N.Nallammal W/o.Nallappan	153/1	436/2	2.79
7.	R.Kandasamy S/o.Ramasamy	153/1	45	2.16
8.	P.Dhanalakshmi W/o.Periyasamy	153/1	442/3	1.00
9.	N.Ramasami S/o.Nalliappan	153/1	445	2.20
10.	P.Sarasu S/o.Pulliappan	153/1	438/2	2.18
11.	R.Nalliappan S/o.Ramasamy	153/1	441/1	2.34
12.	K.Saraswathi S/o.Kandasamy	153/1	441/2	2.43
13.	K.Yogaraj S/o.Kandasamy	153/1	440	2.95
14.	S.Paramasivam S/o.Subramani	153/1	440	2.95
15.	K.Duraishwamy S/o.Karuppanan	153/1	439/2	2.60
16.	R.Lakshmi W/o.Ramasamy	153/1	437/2	2.90
17.	S.Sivanthanam S/o.Seerangan	153/1	439/2	2.60
18.	A.Mani S/o.Arumugam	153/1	438/3	2.40
19.	M.Muthulakshmi W/o.Murugesan	153/1	437/1	1.95
20.	C.Pavayee W/o.Chinnu Nadar	153/1	437/1	2.10
21.	C.Shanmugasundram S/o.Chinnu Nadar	153/1	437/1	2.06
22.	K.Sumathi W/o.Krishnamoorthy	153/1	439/1	1.95
23.	A.Chinnammal W/o.Arran	136/1 & 2	428/3	2.10



S.No	Name	Old S.No.	New S.No.	Extension in acres
24.	C.Papayee W/o.Kavari @ Chinnappaian	136/1 & 2	422/3	2.18
25.	C.Periswami @ Thangavelu S/o. Chinnappaian	136/1 & 2	431/3, 8	2.10
26.	Seeragan S/o.Arran	136/1 & 2	430/2	2.33
27.	T.Periyasammi S/o.Thaddan	153/1	438/2	3.04
28.	M.Balakrishnan S/o.Mariappan	136/1 & 2	431/2, 7	2.40
29.	M.Muthu S/o.Muthuswami	136/1 & 2	440	2.80
30.	P.Gopal S/o.Paramasivam	136/1 & 2	422/2	2.20

5. The said lands have been in continuous possession and enjoyment of the petitioner and others since, 1960. In the A-Register, the land has been shown as Anadhenam or unassessed dry waste. After recognizing the possession of the petitioner, the revenue authorities have issued B-Memo to the petitioner and others instead of issuing assignment. The Ramachandran, the father of the respondents 9 and 10 claimed their patta in respect of the lands forming part of the Estate, the same has been rejected by the Board of Revenue on Revenue on 07.08.1974. Even in the year 1974, the revenue authorities recognised the possession of petitioner and others. Applications



have also been given by the petitioners and the villagers on 18.03.1978 to the RDO, Sangagiri for assignment of the land. However, no action has been taken. The criminal proceedings were also initiated against the petitioner and others, wherein, the petitioner was acquitted in C.C.No.590 of 1984. Though there is a specific bar for filing a suit in Civil Court, the respondents 9 and 10 filed a suit in O.S.No.397/1977 before the learned District Munsif, Sangagiri and had obtained a decree. Pursuant to the said decree, the Government Order in G.O.Ms.No.338 dated 10.09.2009 was issued by the Government for issuing the patta in favour of the respondents.

6. According to the petitioner, the Government Order was issued behind the back of the petitioner. According to them, the Principal Secretary has no jurisdiction to issue patta under the Act 26 of 1948. The writ petitions were filed challenging the said Government Order in W.P.Nos.27043 of 2009 and 2857 of 2010 and the same were dismissed by way of common order dated 18.01.2018 and writ appeals were filed in W.A.Nos.712 & 713 of 2023 which were also dismissed. However, Review Applications in Rev.SR.Nos.114949 and 114950 of 2018 are pending before this Court. In the meanwhile, taking advantage of the patta granted in favour of the respondents, the respondents are trying to dispossess the petitioner. Hence,



this writ petition.

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7. The second respondent filed a counter stating that there are no materials to show that the petitioner is in possession of the property and he has no valid title in the said survey numbers. The entire land came under Act 26 of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. The survey numbers claimed by the petitioner is classified as Anadeenam and Tharisu after the village was taken under the Act 26 of 1948. Thereafter, the respondents 9 and 10 filed a suit in O.S.No.397/1977 before the District Munsif Court, Sankari claiming ownership and title over the said land as the same were inherited by them from their family, a decree was obtained in their favour. Pursuant to the decree passed by the District Munsif Court, a Government Order in G.O.Ms.No.388 dated 10.09.2009 was passed by the the Revenue Secretary with a direction to the District Collector, Namakkal to make necessary entries in the revenue records and issue patta in favour of the respondents 9 and 10 for the lands comprised in Survey Nos.163/2 and 153/1 measuring a total extent of 103.60 acres. Based on the said Government Order, the District Revenue Officer, Namakkal passed an order in Na.Ka.No.9379/2015/L1 dated 09.04.2018 with a direction to verify the classification of land and issue patta in favour of the respondents 9 and 10.



Accordingly, patta was issued.

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8. According to the 2nd respondent, there are no records to prove that the writ petitioner was in possession of the above property at any point of time. The previous writ petitions filed by the petitioner were also dismissed by common order and the appeal is also dismissed. Further, the petitioner is also not eligible to claim patta under the Act 26 of 1948.

9. It is the contention of the respondents 9 and 10 in their counter that the petitioner has already filed writ petitions in the same matters and they were dismissed, writ appeals were dismissed. Now, the petitioner is trying to re-agitate the same matter once again in the present writ petition. The other petitioner in W.P.No.17649 of 2021 was filed by way of public interest litigation to conduct enquiry on the issuance of G.O.(Standing).No.338 dated 10.09.2009 which was also dismissed with a cost of Rs.1000/- by an order dated 25.08.2021. Therefore, once again, the petitioner cannot reagitate the matter. The suit filed by one Kalimuthu in O.S.No.128 of 2020 is also rejected. Similarly, several suits filed by the petitioner and others were also rejected. According to them, properties have been now sold to the impleading petitioner on 28.04.2021 and revenue records are also changed. Hence,



opposed the writ petition.

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10. The learned Special Government Pleader submitted that the petitioners are not in possession of the properties. The Government Order directing patta in favour of the respondents 9 and 10 was also challenged before this Court in W.P.Nos.27043 of 2009 and 2857 of 2010 were also dismissed. Therefore, the petitioner once again cannot re-agitate the matter. Further, there is no evidences to show that the petitioner is in continuous possession and enjoyment of the property. Therefore, when the matter has reached finality once again cannot be reopened. Such directions cannot be sought in the writ petition.

11. The learned Senior Counsel appearing for the respondents 9 and 10 and the impleading petitioner/11th respondent submitted that this writ petition is nothing but vexatious and only to re-agitate the concluded matter. When the writ petition is already dismissed and the validity of the Government Order is decided, once again the same cannot be re-agitated.

12. Heard both sides and perused the materials placed on record.



13. The prayer sought for in this writ petition is for a direction to the respondents 1 to 3 to conduct an enquiry based on the G.O.(Ms).No.1300 dated 30.04.1971 in view of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and consequently assign the lands in favour of the petitioner. It is relevant to note that the petitioner claims that the petitioner and others are in possession of the property from the year 1960, even before the lands were notified under the Act 26 of 1948. It is the contention of the petitioner that the original owner's request for patta is already rejected in the year 1974 by the Board of Revenue. The petitioner and other possession have been recognised and "B" memos were issued. Therefore, subsequent Government Order issuing patta in favour of the respondents 9 and 10 are outside the scope of Act 26 of 1948 and is not valid in the eye of law. Therefore, according to the learned counsel for the petitioner, the petitioner's case has to be considered in tune with the G.O.(Ms).No.1300 dated 30.04.1971.

14. On perusal of the entire materials, the crux of the challenge is with regard to the issuance of patta in favour of the private respondents. The admitted fact is that though the patta were originally rejected under the Act 26 of 1948, thereafter suit has been filed by the respondents 9 and 10 in O.S.No.397 of 1977 before the District Munsif Court, Sankagiri and a decree



was obtained on 25.07.1978. The said decree and judgment has reached finality. Based on the decree and judgment, Government Order has been issued in G.O.Ms.No.338 of 10.09.2009 granting patta in favour of the respondents 9 and 10.

15. It is relevant to note that the said Government Order was put to challenge in W.P.Nos.27043 of 2009 and 2857 of 2010 and the same were dismissed by way of common order dated 18.01.2018. The very similar relief for assignment of the land invoking G.O.(Ms).No.1300 dated 30.04.1971 was made before the Writ Court earlier. In paragraph 18 of the Order, this Court has captured the very submissions made in this regard. Considering the submissions and various judgments, this Court in paragraphs 19, 20, 21 & 22 held as follows:

"19. Although the petitioners have attempted to make out a case for grant of assignment on the ground that they have been in possession of the subject property since 1960 and have been cultivating the same ever since, such right cannot override the declaration of title declared by the Civil Court in O.S.No.397 of 1977 by judgment and decree dated 25.7.1978. The respondents 6 and 7 having obtained decree and judgment in their favour from the Civil Court declaring them that they are the absolute owners of the property and also obtained permanent injunction,



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restraining the official respondents from interfering with the plaintiffs' peaceful possession and enjoyment, the vesting of the lands with the Government stood seized of with effect from the date of the judgment, i.e. 25.07.1978. It is pertinent to note that the above said judgment and decree had reached a finality and therefore, there was no other option for the Government except to implement the Civil Court judgment and decree dated 25.7.1978 passed in O.S.No.397 of 1977. Since the Government had been enjoined from interfering with the possession and enjoyment of the respondents 6 and 7 in respect of the subject property, this Court does not see under what authority, the petitioners are seeking assignment of the subject property in their favour by invoking jurisdiction of this Court under Article 226 of the Constitution of India.

20. The counter affidavit filed on behalf of the respondents 1 to 5 has given complete details in regard to action taken by the Government Officials right from 1951 and till passing of the impugned G.O.Ms.No.338 dated 10.09.2009 Moreover, some of the petitioners who had approached the Civil Court as early as in 1983 in O.S.No.372 of 1983 for permanent injunction, had failed in their attempt in obtaining permanent injunction, as the said suit was dismissed for non-prosecution and the same had also not been restored. These factors had not been disputed by the petitioners. That being the case, this Court does not



comprehend as to on what legal basis, the petitioners are seeking for assignment of the lands in their favour. From the entire pleadings placed on record on behalf of the petitioners, the only basis on which the petitioners are claiming for grant of assignment was that they have been in possession and enjoyment of the subject lands from 1960 and the Settlement Officer at the time of abolition of the land by the Act 26 of 1948, had classified the subject lands as Anadeenam/AWD. However, after passage of time, when attempts were made on behalf of the respondents 6 and 7 to get patta outside the scope of the Act was not fruitful, they filed a suit in O.S.No.397 of 1977 and obtained decree in their favour. The Government admittedly had not filed any appeal against the order on the basis of the opinion obtained from the Government Pleader as disclosed in the counter affidavit filed on behalf of the respondents 1 to 5 herein. Therefore, the Government had rightly pursued the matter to its logical end and complied with the judgment and decree of the District Munsif Court, Sankari by issuing the impugned G.O.Ms.No.338 dated 10.9.2009 ordering patta to the respondents 6 and 7 herein. Such action on the part of the first respondent cannot be validly questioned by the petitioners who are admittedly trespassers into the subject land and whose rights had been circumscribed only by the fact that they have been in continuous possession of the subject land for several years.

21. This Court after adverting to various facts and legal



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submissions, is of the view that the pre-existing right of the respondents 6 and 7, cannot be allowed to be extinguished to their detriment in the teeth of the petitioners' claim who are none other than the trespassers of the subject lands. This position of course, would have been different if the Government had initiated timely action for bringing the land in question under the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961. Further, no action was initiated under the said Ceiling Act and before that, the respondents 6 and 7 had approached the Civil Court and obtained the decree in 1978. This fact was also admitted in the counter affidavit on behalf of the respondents 1 to 5 in paragraph 3 of the counter affidavit. In such scenario, this Court does not see on what basis, the petitioners' claim could be addressed towards grant of any relief as prayed for by them in the writ petitions.

22. In the above circumstances, this Court is of the clear view that the petitioners have not made out any case for grant of the relief as sought for. On the other hand, the respondents 6 and 7 have made out a case for passing G.O.Ms.No.338 dated 10.9.2009 in their favour and the said G.O. was validly issued by the first respondent in the circumstances of the case and therefore, the same does not call for any interference from this Court.

For the foregoing reasons, the Writ Petitions are dismissed as devoid of merits and substance. No costs.



Consequently, connected WPMPs are closed."

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16. Similarly, one suit filed by the petitioner in O.S.No.372 of 1983 as early as 1983 is also dismissed for default long back, which is also taken note by the Writ Court in the earlier judgment and finally dismissed the writ petition. The appeal filed as against the common order in W.A.Nos.712 & 713 of 2018 were also dismissed, wherein, the Division Bench of this Court has clearly held that the appellants filed a suit before the Civil Court for permanent injunction, the same is also dismissed for non prosecution and the judgment and decree passed by the Civil Court in the original suit filed by the respondents 6 and 7 had become final, consequent to which, the Government has issued patta to them. Thus, there is no dispute with regard to the title of the respondents 6 and 7/respondents 9 & 10 herein with respect to the lands in question. As the lands were restored to its original character and patta was granted to the respondents 6 and 7/respondents 9 & 10 herein, the claim of the appellants that they were in continuous possession and enjoyment of the lands in question and as such, the said lands have to be assigned to them, has to be rejected. The relevant paragraphs of the judgment would read as follows:

"6. Admittedly, the appellants filed a suit before the Civil Court for permanent injunction and the same was dismissed for



non prosecution. But, the judgment and decree passed by the Civil Court in the original suit filed by the respondents 6 and 7 had become final, consequent to which, the Government has issued patta to them. Thus, there is no dispute with regard to the title of the respondents 6 and 7 with respect to the lands in question.

7. In the light of the above and in view of the fact that the lands in question which were taken over by the Government were restored to its original character and patta was granted to the respondents 6 and 7, the claim of the appellants that they were in continuous possession and enjoyment of the lands in question and as such, the said lands have to be assigned to them, has to be rejected."

17. Therefore, when the Courts have already decided the issue which had reached finality, once again, similar relief cannot be sought in this writ petition by just moulding the relief. Though various allegations are pressed in this writ petition, the crux of the issue is with regard to the alleged possession of the petitioner and issuance of assignment invoking G.O.(Ms).No.1300 dated 30.04.1971. As already stated, this Court has elaborately dealt about the applicability of the above Government Order in the petitioner's case in the earlier writ petitions, they are, W.P.Nos.27043 of 2009 and 2857 of 2010.



Therefore, once again, this Court is of the view that the same relief cannot be sought in the different writ petitions by just seeking different relief. If such writ petitions are entertained routinely, it will lead to opening of flood gate and reopen the entire issue once again. It is also to be noted that a writ petition in W.P.No.17469 of 2021 was also filed by way of public interest litigation to conduct the enquiry on the issuance of G.O.(Standing).No.338 dated 10.09.2009, the said writ petition was also dismissed on 25.08.2021 with a cost of Rs.1000/-. Therefore, this Court is of the view that when the matters with regard to the issuance of patta and assignment is already determined conclusively, the same cannot be re-agitated. Earlier writ petitions will certainly operate as *res judicata*.

18. Therefore, this Court finds that there is no merit in the writ petition and accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

27.06.2024

dhk

Internet : Yes/No

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Neutral Citation : Yes/No



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N.SATHISH KUMAR, J.

dhk

W.P.No.4983 of 2024



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