



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.16888 of 2013 and 5368 of 2014
and M.P.(MD)Nos.2 and 3 of 2013 and 2 and 3 of 2014

W.P.(MD)No.16888 of 2013

1. K.Koppammal
2. M.Sembukutti

... Petitioners

versus

1. The Special Tahsildar,
Town Survey and Land Reforms,
Theni Alli Nagaram,
Theni District.
2. The Tahsildar,
Taluk Office,
Theni District.
3. The Town Surveyor,
Theni Alli Nagaram Municipality,
Theni,
Theni District.
4. M.Sivanandam
5. M.Poorana Anandhan (died)
6. A.Senthilkumar



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

7. Rathina

8. Vasuki

(R7 and R8 are substituted
as LR's of the deceased R5)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorari, to call for the records
relating to the impugned order of the first respondent in Na.Ka.No.
28/2013 dated 19.07.2013 and quash the same as illegal.

For Petitioners	: Mr.M.Mahaboob Athiff
For R1 to R3	: Mr.A.Baskaran, Additional Government Pleader
For RR4, 7 and 8	: No appearance
For R5	: Died
For R6	: Mr.D.Nallathambi

W.P.(MD)No.5368 of 2014

1. K.Koppammal
2. M.Sembukutti

... Petitioners

versus

1. The Special Tahsildar,
Town Survey and Land Reforms,
Theni Alli Nagaram,
Theni District.



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

2. The Tahsildar,
Taluk Office,
Theni District.

3. The Town Surveyor,
Theni Alli Nagaram Municipality,
Theni,
Theni District.

4. M.Sivanandam

5. A.Senthilkumar

... 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 relating to the impugned order of the 2nd respondent in Na.Ka.No.5410/2013 A8 dated 18.12.2013, quash the same and consequently, direct the respondents 1 to 3 herein to survey, sub-divide and grant patta to the petitioners in S.No.192/2 as per their sale deeds dated 16.11.1981 and 13.09.2001 and title deeds of vendor and predecessors in title of the petitioners within a reasonable time.

For Petitioners : Mr.M.Mahaboob Athiff

For R1 to R3 : Mr.A.Baskaran,
Additional Government Pleader

For R4 and R5 : Mr.D.Nallthambi



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

COMMON ORDER

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W.P.(MD)No.16888 of 2013 has been filed by one K.Koppammal and M.Sembukutti as against the order dated 19.07.2013 passed by the Tahsildar, Theni, granting patta in favour of one A.Senthilkumar, 6th respondent herein.

2. W.P.(MD)No.5368 of 2014 has been filed by the said K.Koppammal and M.Sembukutti as against the proceedings of the Tahsildar, Theni, dated 18.12.2013, rejecting their request for surveying their lands in Survey No.192/2.

3. The learned counsel appearing for the petitioners submits that the petitioners, namely, Koppammal and Sembukutti are the absolute owners of the lands in Survey No.192/2 at Alli Nagaram, Theni District. As the adjacent land owners had interfered with their possession and enjoyment of the property, they had filed suits in O.S.No.195 of 2007 and O.S.No.464 of 2006 respectively, seeking for



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

the relief of declaration of title and also for permanent injunction, before the learned District Munsif Court, Theni. Both the suits were decreed by Judgment and Decree dated 28.04.2008. As against the same, the unsuccessful defendants preferred appeals in A.S.Nos.88 of 2009 and 135 of 2008 and the same were also dismissed, against which, second appeals in S.A.(MD)Nos.181 and 180 of 2011 were also filed. The second appeals were also dismissed by Judgment and Decree dated 07.02.2012 confirming the findings of the trial Court. Based on the said decree, the petitioners have approached the revenue officials and submitted the applications for surveying the lands. As the revenue officials have not considered their applications, the petitioners have filed writ petitions in W.P.(MD)Nos.10050 and 10051 of 2012, wherein, this Court directed the respondents 2 and 3 to consider the petitioners' applications within a period of six weeks. Even thereafter, the respondent officials have not taken any steps to survey the land. In the meantime, the respondent officials by colluding with the unsuccessful defendants, created a document in favour of the 6th



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

respondent and also transferred patta in his favour, by proceedings dated 19.07.2013. Challenging the proceedings dated 19.07.2013, W.P.(MD)No.16888 of 2013 has been filed. Subsequently, the Tahsildar, Theni, by proceedings dated 18.12.2013, passed an order rejecting the request of the petitioners for surveying their lands. Challenging the same, W.P.(MD)No.5368 of 2014 has been filed.

4. The learned counsel appearing for the 6th respondent in W.P. (MD)No.16888 of 2013 submits that as against the Judgment and Decree passed in S.A.(MD)Nos.181 and 180 of 2011, the 6th and 7th respondents have filed review applications in Rev.Aplc.(MD)Nos.42 and 43 of 2016 before this Court. This Court, by order dated 11.02.2020, disposed of the review applications with a direction to both the parties to submit a fresh application for sub-division and on receipt of the applications, the revenue authorities shall pass orders based on the title documents. Pursuant to the order of this Court passed in Review Application Nos.42 and 43 of 2016 dated 11.02.2020, the Sub



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

Collector, Theni, conducted an enquiry and passed an order on 19.10.2020, cancelling the patta stand in the name of A.Senthilkumar, 6th respondent in W.P.(MD)No.16888 of 2013 and restored the same in the name of original owner. As against the same, the said A.Senthilkumar has filed a writ petition in W.P.(MD)No.20983 of 2021 and the same is pending before this Court.

5. The learned counsel appearing for 6th respondent further submits that patta stand in the name of the 6th respondent, has been cancelled, without providing him an opportunity of hearing and that too when he was out of country. He has also referred the passport of the said Senthilkumar to prove that during that period, he was out of country. According to him, the order dated 19.10.2020 was passed in violation of principles of natural justice.

6. The learned counsel appearing for the 6th respondent further submits that as against the order of this Court passed in Rev.Aplc.



W.P.(MD)Nos.16888 of 2013 and 5368 of 2014

(MD)Nos.42 and 43 of 2016, the 6th respondent has filed a Special Leave Petition in SLP(Civil) Diary No.8528 of 2023 along with the condone delay application in I.A.No.47644 of 2023. In the condone delay application, the Hon'ble Supreme Court, on 20.03.2023, has ordered notice to the parties. The petitioners, namely, Koppammal and M.Sembukutti have also entered appearance in the condone delay application.

7. In view of the subsequent order passed by the Sub Collector, Theni, by his proceedings dated 19.10.2020, cancelling the patta stand in the name of the 6th respondent and also in view of the pendency of Special Leave Petition filed by the 6th respondent before the Hon'ble Supreme Court, these writ petitions are closed as infructuous. No costs. Consequently, connected miscellaneous petitions are closed.

04.03.2024

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.



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B.PUGALENDHI, J.

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