



Rev.Applc(md)No.66 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Rev.Applc(MD)No.66 of 2024

in

A.S.No.905 of 2004

1.Savithribai Joshi(Died)
2.N.Upendran(Died)
3.B.N.Joshi
4.Sripata
5.Hemalatha
6.R.Ramanathan(Died)
7.R.Udhayakumar

... Petitioners 1-7/Appellants
1 -5 & 7 to 9

8.U.Kumuthini
9.U.Kamesh
10.U.Charusheela
11.Dhinesh

...Petitioners 8-11/ L.Rs of
2nd Appellant

12.Saraswathi
13.Srikirupa
14.Karthikeyan
15.Anuradha
16.Sangeetha

... Petitioners 12 -16/L.Rs of
6th Appellant

Vs.

1.The State of Tamil Nadu,
Rep by the District Collector,
Ramanathapuram District.

2.The District Health Officer,
Ramanathapuram District.

... Respondents 1&2/
Respondents



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3.S.Sailakumari

...3rd Respondent/9th Appellant

Prayer : Review Application is filed under Order 47 Rule 1 r/w. Section 114 of C.P.C., to review the order of this Court dated 12.09.2018 passed in A.S.No.905 of 2004.

For Petitioner : Mr.A.V.Arun
for Mrs.J.Anandhavalli
For R1 & R2 : Mr.D.Gandhiraj
Special Government Pleader

ORDER

The review application has been filed by the petitioners seeking re-visitation of the judgment dated 12.09.2018 in A.S.No.905 of 2004, by which judgment, this Court had allowed the Appeal Suit and had set aside the judgment and decree of the Sub-Court, Ramanathapuram at Madurai, dated 25.07.1990 in O.S.No.26 of 1989 and had dismissed the said suit.

2.Though one of the grounds raised in the review is that the second plaintiff, who is the second respondent in the cause title to the appeal suit N.Upendran, had died and that the Court had proceeded without impleading the legal representatives, since the legal representatives have now filed the review and an order is now passed on hearing the learned counsels, the findings in the judgment in the Appeal Suit is retained. It is also to be noted that the counsel had actually appeared on behalf of the respondents 3 to 5 and 7 to 9, while



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hearing the Appeal Suit and no mention was made about the death of the second respondent.

3.Be that as it may, one of the primary grievances is that the lands which were the subject matter of the suit measuring 25 acres and 20 cents, had been originally classified as Anadheenam lands. This would indicate that though patta had been granted initially, since the lands had not been effectively put to use, a decision had been taken to reclassify the lands as Anadheenam lands. It is stated by the learned counsel for the applicants that even though the lands had been reclassified as Anadheenam lands as original pattadhars, the review petitioners are in an advantageous position to seek reclassification of the said lands back in their names.

4.The other grievance is that after classifying the lands as Anadheenam lands, by Ex.B.2, some of the lands had been further reclassified as assessed dry waste. Survey No.518 was subdivided into 7 portions. Each portion contained 0.91 acres. These lands were reclassified as assessed dry waste. Even in the Adangal, Ex.B.3, the aforementioned lands were reclassified as assessed dry waste. Ex.B.4, is a document reflecting handing over of a part of S.No.518 and in that document also the lands had been reclassified as assessed dry waste land measuring 1 acre had been handed over to the Public Health Department,



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District Health Officer, Ramanathapuram for the purpose of constructing Malariya Field Station, staff quarters and godown.

5.The learned counsel appearing for the review applicant stated that this reclassification as assessed dry waste was done immediately after the suit was filed. It is contended that on the basis of such reclassification, the appellant in the Appeal Suit herein had proceeded to issue patta to various third parties. Questioning such issuance of patta, the review petitioners have instituted writ petitions which are pending. It is contended that by this reclassification as assessed dry waste, has affected the right of the review petitioners to seek the lands which had been only classified as Anadheenam, lands. It is further contended that the observations of this Court that the petitioners have lost their title owing to such reclassification of the lands as assessed dry waste, should be re-examined by this Court to that extent.

6.Mr.D.Gandhiraj, learned Special Government Pleader stated that the Government had taken possession of the lands and had also issued a notification and since no objections were raised, the Government proceeded to take further steps to grant patta to various individuals.



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7.As stated above, the grant of such patta is the subject matter of the scope of writ petitions. But the observation by the Court that the review applicants have lost title over the lands might affect the interest of the review petitioners when agitating the writ petitions herein. Therefore, that particular observation line is now reviewed by this order. That observation has crept at Para No.40, wherein it has been stated “*It is settled principle that once the land had been acquired for public purpose, compensation alone can be sought*”.

This observation, suffers from two errors viz., that land had been acquired and that therefore the review applicants are entitled only for compensation.

8.The fact is that the review applicants were originally recognized as pattadhars and owing to various circumstances the lands had been reclassified as Anadheenam which still retained a right to them to seek possession of the lands and to seek mutation of the records to their names. The lands had been however subsequently reclassified as assessed dry waste land and only thereafter they had been acquired by the Government.

9.I hold that in the judgment in the Appeal Suit, this particular line in Para No.40 has to be deleted.



10.In Para No.43, the following observation of the Court is deleted “*I hold that the plaintiffs have not established their title over the entire suit property.*” On the other hand, the following observation is incorporated:

“I hold that the plaintiffs have not established their possession over the lands which had been declared as assessed dry waste and that they must be given an opportunity to establish such possession by raising a claim with the authorities”.

11.In para No.44, it had been observed as follows:

“However, the plaintiffs are given liberty to apply to the authorities to claim title to specific areas which are required for livelihood”, requires to be revisited and the words “*to specific areas which are required for livelihood*” are deleted. The following word “*since*” is also deleted.

12.In Para No.45, the following sentence is deleted::

“Points framed for determination are answered that the plaintiffs have not established title or possession over the lands reclassified as assessed dry waste and the defendant had taken possession of those lands after subdividing the property”.



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The following is substituted:

“Points framed for determination are answered that the plaintiffs have not established title or possession over the lands reclassified as assessed dry waste and the defendant had taken possession of those lands after subdividing the property”.

13.In para No.46, a direction had been issued as follows:

“the first respondent is directed to survey the entire lands and determine the actual lands over which the plaintiffs are in possession and if the plaintiffs make any representation seeking allotment of said land, consider it in accordance with the rules”.

The word *“over which the plaintiffs are in possession”* are deleted and is substituted with *“over which there has been reclassification as assessed dry waste”*.

14.The review application is accordingly partly allowed. The judgment dated 12.09.2018 is to be accordingly amended and fresh judgment copy may be issued. No costs.

22.10.2024

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



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C.V.KARTHIKEYAN, J.

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To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Maintenance and Welfare of Parents
and Senior Citizen Tribunal cum Sub Collector,
Cheranmahadevi,
Tirunelveli District.

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in
A.S.No.905 of 2004**

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