



WMP(MD). No.9234 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Sixth day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

AND

The Hon`ble Mr.Justice B.PUGALENDHI

WMP(MD). No.9234 of 2024

in

W.P.(MD)No.26098 of 2023

Sivakasi Shabash Khan Gori Pallivasal

Represented by its Secretary and

Having its Office at No.40 Sakkarai Vava Street,

Sivakasi,

Virudhunagar District.

... Petitioner/Third Party

Vs

1. Uthandaraman.K

S/o.Krishnana No.3/1253 Meera Colony,

Pallapatti,Sivakasi,

Virudhunagar District. - 626 189.

...Respondent No.1/Petitioner

2. The District Collector

District Collector Office Virudhunagar

District.

3. The Director

Directorate of Municipal Administration,

75, Urban Administration Building Santhome High Road,

MRC Nagar,Raja Annamalaipuram,

Chennai - 600 028.



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4. The Commissioner,
Sivakasi Corporation,
Virudhunagar District.

5. The Revenue Divisional Officer,
Revenue Divisional Office,
Sivakasi,
Virudhunagar District.

6. The Tashildar
Thasildar Office,
Sivakasi Taluk,
Virudhunagar District.

... Respondents/2to6/Respondents1to5

Prayer in W.M.P.(MD)No.9234 of 2024:-

Writ Miscellaneous Petition Under Article 226 of Constitution of India to Grant Leave to the petitioner herein to file petition to recall order in WP (MD).No.26098 of 2023 dated 23.11.2023 on the file of this Hon'ble Court and issue appropriate clarifications so as to safeguard the interest of the Petitioner Pallivasal in the property comprised in S.No.664, Old T.S.No.46, New T.S.No15, Ganagiri Road, Block 6, Ward C, Sivakasi Town, Virudhunagar District in an extent of 1.07 acres by taking in to consideration of the proceedings pending in O.S.No.1 of 2020 on the file of the Wakf Tribunal, Chennai.

Prayer in W.P.(MD)No.26098 of 2023:-

Writ Petition filed Under Article 226 of the Constitution of India, Praying this Court to issue a Writ of Mandamus, directing the respondents to restore and preserve the Water Tank (Oorani) situated at Sivakasi Corporation Ward C, Block No.6, Town Survey No.15, measuring to an extent of 1 Acre, Which is classified as Government Poramboku (Oorani) based on the representation sent by the petitioner dated 08/04/2023.



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ORDER:-
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This Writ Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.Mr. P.Athimoolapandian Advocate for the Petitioner, and Thiru.Mr.Raja mohan for R1, Mrs.S.Devasena for R4 and Mr.K.Balasuramani Special Government Pleader for RR 2, 3, 5, & 6 for the respondents, this Court made the following order:

"One K.Uthandaraman filed W.P(MD)No.26098 of 2023 with the following relief:

"Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to restore and preserve the Water Tank (Oorani) situated at Sivakasi Corporation Ward C, Block No.6, Town Survey No.15, measuring to an extent of 1 Acre, which is classified as Government Poramboku (Oorani) based on the representation sent by the petitioner dated 08.04.2023."

2.The writ petition was disposed of by us on 23.11.2023 in the following terms:

"Heard both sides.

2.The petition mentioned tank is lying within the corporation



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limit of Sivakasi. It is categorically asserted by the respondents that the water body has not been encroached as such. But then it is not in proper condition. The photographs produced by the learned counsel for the petitioner would indicate that two many shrubs have been grown in the tank. We also have a doubt that a building has been constructed within the tank boundaries. In order to dispel the same, the respondent are directed to conduct proper survey. All efforts will be made to restore the water body to its original condition. The shrubs that have grown in the water body shall be removed. This exercise shall be done as expeditiously as possible.

3.This writ petition is disposed of accordingly. No costs.”

Seeking recall of the said order, Sivakasi Shabash Khan Gori Pallivasal filed this Writ Miscellaneous Petition.

3.The learned counsel appearing for the petitioner submitted that the petition mentioned water body belongs to Sivakasi Shabash Khan Gori Pallivasal. He relied on title deed (T.D.No.532) issued way back in the year 1866. He took us through the averments set out in the affidavit filed in support of the recall petition and also the materials enclosed in the typed set of papers and prayed that leave may be granted and the order passed by us may be recalled.



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4.The learned Standing Counsel appearing for the Corporation submitted that when the Corporation officials attempted to enforce the order passed by this Court, they met with stiff resistance and that they are not able to remove the shrubs and bushes that have grown in the water body.

5.The learned counsel appearing for the writ petitioner submitted that the order passed by this Court does not call for any review.

6.We carefully considered the rival contentions and went through the materials on record. It is beyond dispute that in the revenue record, the petition mentioned survey number has been classified as “water body”. It is seen that patta was fraudulently issued by the then Assistant Settlement Officer, Madurai in the year 1996 in favour of some private individuals. It was the Sivakasi Shabash Khan Gori Pallivasal that moved the Special Commissioner of Land Administration, Chepauk, Chennai for suo motu reviewing the said orders.

7.The Special Commissioner of Land Administration, Chepauk, Chennai vide proceedings bearing No.R.Dis.K1/29588 dated 17.06.2005 exercised his suo motu jurisdiction and cancelled the proceedings dated 02.02.1996 issued by the Assistant Settlement Officer, Madurai and ordered to register the suit land as Oorani Government poramboke in all revenue records.

8.Aggrieved by the same, the petitioner herein, Sivakasi Shabash Khan Gori



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Pallivasal, filed O.S.No.98 of 2008 on the file of the Wakf Tribunal, Srivilliputhur. It is now transferred to the Wakf Tribunal, Chennai and renumbered as O.S.No.1 of 2020. It is again admitted that till date the Sivakasi Shabash Khan Gori Pallivasal has not obtained any decree in their favour. In other words, the order passed by the Commissioner of Land Administration, Chepauk, Chennai holds good. The resultant effect is that the suit land has to be recognised only as Oorani.

9.Parallely the persons whose pattas were cancelled filed W.P(MD)No.7824 of 2005. They were dismissed on 16.03.2012. Aggrieved by the same, they filed W.A (MD)No.940 of 2012. The Hon'ble Division Bench dismissed the writ appeal on 16.11.2018. In Paragraph 4 of the order passed by the Hon'ble Division Bench, it has been mentioned that the land has been classified as water body in the revenue records. In that view of the matter, it was held that there was no power inhering in any one to issue patta in favour of any one. The Hon'ble Division Bench referred Section 14-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and noted that even if it is a private land, the person claiming patta as a land holder cannot get patta in respect of Oorani. In other words, even in respect of a private tank or Oorani, patta cannot be granted in favour of the persons in whose name the land is registered. Thus looked at from any angle, we do not find any ground to grant relief or recall the order earlier passed by us.



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10.This Writ Miscellaneous Petition stands dismissed."

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Sd/-

Assistant Registrar (CO)

// True Copy //

/09/2024

Sub Assistant Registrar
(CS - I/II/III/IV)

MGA

TO

1. The District Collector
District Collector Office Virudhunagar
District.
2. The Director
Directorate of Municipal Administration,
75,Urban Administration Building Santhome High Road,
MRC Nagar,Raja Annamalaipuram,
Chennai - 600 028.
3. The Commissioner,
Sivakasi Corporation,
Virudhunagar District.
4. The Revenue Divisional Officer,
Revenue Divisional Office,
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5. The Tashildar,
Thasildar Office ,
Sivakasi Taluk,
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+ 1 CC TO M/S P.Athimoolapandian Advocate S.R.No.42223.

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+ 1 CC TO M/S S.Devasena Advocate S.R.No.41883.

+ 1 CC TO M/S R.RajaMohan Advocate S.R.No.41566.

+ 1 CC TO Government Pleader S.R.No.41754.

Copy to:

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai

ORDER DATED : 06/08/2024

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ORDER
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in
W.P.(MD)No.26098 of 2023

Giving direction and etc.
as stated within.

SL(05.09.2024)/ 8P/ 11C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.