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REV.APLW.(MD)NO. 148 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

REV.APLW.(MD)No.148 of 2024 in

W.P.(MD)No.4445 of 2024 &

W.M.P.(MD)No.16300 of 2024

1. The District Collector,
Thanjavur District, Thanjavur.
2. The District Collector,
Pudukottai District, Pudukottai.
3. The Regional Development Officer,
Karambakudi,
Pudukottai District. ... Review applicants / Respondents 1 to 3

Vs.

1. Banumathi ... 1st Respondent / Petitioner
2. The President,
Kalyaranviduthy Village Panchayat,
Pudukottai District. ... 2nd Respondent / 4th Respondent

Prayer: Review application filed under Order 47 Rule 1 and 2 r/w. Section 114 of CPC., to review the order passed by this Court in W.P.(MD)No.4445 of 2024 dated 26.02.2024 and to allow the review application.

For Review Applicants : Mr.Veerakathiravan,
Additional Advocate General,
assisted by,
Mr.K.Balasubramani,
Special Government Pleader.



For R-1

: Mr.R.Maheswaran,
for Mr.T.Eashwar.

* * *

ORDER

Heard the learned Additional Advocate General appearing for the review applicants and the learned counsel appearing for the first respondent / writ petitioner.

2. The first respondent herein filed W.P.(MD)No.4445 of 2024 for forbearing the authorities from putting up any construction in survey No.196/1 at Unjiyaviduthi Village in Thiruvonam Taluk, Thanjavur District. The writ petition was allowed by me vide order dated 26.02.2024 in the following terms:-

“Heard both sides.

2. When the matter was taken up for hearing, the learned Special Government Pleader appearing for the local body submitted that there is no proposal to put up any construction in survey No.196/1 at Unjiyaviduthi Village. The learned Special Government Pleader points out that in the “A” Register, survey No.196/1 has been shown as Tharisu. But the petitioner has enclosed patta No.426 at page No.36 of the typed set of papers which stands in the



name of one Thangaiyan, S/o.Thambiyaiya Thevar. When survey No.196/1 is a patta land, unless it is acquired in the manner known to law, the authorities cannot put up any construction or even occupy the same. Once the State has recognised the right and title of an individual by issuing patta, it has to be respected. Though Article 19(1)(f) of the Constitution of India had been deleted vide 44th amendment, the right to property is still a constitutional right under Article 300A. Therefore, the respondents are restrained from putting up any construction or interfering with the rights of the property of the private parties in survey No.196/1. This writ petition stands allowed. Unless the patta is cancelled in the manner known to law, the respondents cannot be heard to contend that it is not a private property. No costs. Consequently, connected miscellaneous petition is closed.”

3. The District Administration wants this Court to review the said order.

4. The learned Additional Advocate General submitted that in the subject survey number, a branch library building is being constructed and it is about to be completed. On account of the order dated 26.02.2024, the library building could not be declared open for the



benefit of the general public. He pointed out that in the said survey number, there are other public buildings. The core argument of the administration is that the land was originally classified as Tharisu and that during UDR, patta came to be erroneously issued in favour of one Thangaiyan, S/o.Thambiyaiya Thevar. It is strongly contended that the petitioner's husband's name is Muthu Thangaiyan and that the petitioner has nothing to do with the said land. It is pointed out that after getting order from this Court, the first respondent herein filed W.P.(MD) No.10703 of 2024 for issuance of patta in her name. The said writ petition was disposed of on 30.04.2024 with a direction to the Tahsildar, Thiruvonam to consider the first respondent's representation. After full-fledged enquiry, the Tahsildar, Thiruvonam vide order dated 08.06.2024 rejected her request. In these circumstances, when the writ petitioner has no right or claim over the land in question, at her instance an order could not have been passed allowing W.P.(MD)No.4445 of 2024. The learned Additional Advocate General was fair enough to state that these facts were not placed before me when the writ petition was taken up for hearing.

5. The contentions of the learned Additional Advocate General were contested by the learned counsel appearing for the first respondent.



6. I carefully considered the rival contentions and went through the materials on record.

7. I must straightaway observe that the order passed by me in W.P.(MD)No.4445 of 2024 does not suffer any error apparent on the face of the record. It is not in dispute that survey No.196/1 is very much a patta land. It is not the case of the respondents that this land was acquired in the manner known to law. The only contention put forth by the District Administration is that the writ petitioner Banumathi has nothing to do with survey No.196/1.

8. It is true that patta No.426 pertaining to survey No.196/1 stands in the name of Thangaiya, S/o.Thambiyaiya Thevar.

9. The learned counsel appearing for the first respondent filed typed set of papers. A copy of the sale deed dated 04.06.1969(document No.752 / 1969) has been enclosed. It is in respect of survey No.196/1, Unjiyaviduthi Village. It has been executed by one Ayyakannu Poosari in favour of Muthu Thangaiya, S/o.Muthusamy Thevar. Muthu Thangaiya had executed settlement deed in favour of the first respondent Banumathi



vide document dated 02.07.2009 (document No.605 of 2009). Survey No.196/1 has been included in the said settlement deed. These circumstances are overwhelmingly in favour of the first respondent. However, the jurisdictional Tahsildar has rejected the first respondent's request for issuance of patta.

10. I permit the first respondent herein to file an appeal / revision before the District Revenue Officer, Thanjavur. The District Revenue Officer will conduct enquiry. If the District Revenue Officer is satisfied that the documents produced by the first respondent pertain to the subject property, patta shall be issued in favour of the first respondent herein.

11. In that event, the District Revenue Officer shall also determine compensation payable to the first respondent for the land taken up for putting up the petition-mentioned branch library building. Since public interest has to outweigh private interest, the order dated 26.02.2024 made in W.P.(MD)No.4445 of 2024 is accordingly modified. The remaining works can very well be completed and the library shall also be opened for the use of the general public. The first respondent



herein will only be entitled to suitable compensation for the land taken from the subject survey number. This is of course subject to the District Revenue Officer being satisfied about the petitioner's entitlement to issuance of patta for the said survey number. The District Revenue Officer, Thanjavur shall take a considered decision in this regard. He has to pose only two questions; whether the sale deed dated 04.06.1969 (document No.752/1969) pertains to the subject survey number and if so, whether the purchaser namely, Muthu Thangaiya is the husband of the first respondent. The learned counsel for the first respondent states that he will will an appeal within a period of two weeks from the date of receipt of a copy of this order. The District Revenue Officer, Thanjavur shall dispose of the said appeal by bearing in mind the observations made above within a period of eight weeks, thereafter. This review application is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2024

NCC : Yes / No
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Internet : Yes/ No
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G.R.SWAMINATHAN,J.

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