



W.P.(MD) No.12191 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.12191 of 2016

and

W.M.P(MD)No.9286 of 2016

- 1.N.Veerasley
- 2.N.Ramasy
- 3.N.Lakshmanan
- 4.N.Seenivasan (Died)
- 5.N.Kuppusamy
- 6.V.Rajaveerappan (Died)
- 7.V.Kamaraj
- 8.V.Venkidasamy Naicker (Died)
- 9.V.Vijayakumar (Died)
- 10.S.Venkidaraj
- 11.S.Radhakrishnan
- 12.P.Seenivasan



W.P.(MD) No.12191 of 2016

WEB COPY

13.P.Kalyanaraj

14.S.Padmini

15.S.Praveen

16.S.Rajasree

17.R.Vijayakumar

18.R.Rajkumar

19.R.Murali Karthick

20.V.Radha

21.V.Vijaya

22.V.Rukkumani

23.V.Veeramanikandan

24.Vimalasree

.. Petitioners

*(P14 to P24 are substituted vide Court order, dated
03.10.2024 in W.M.P(MD)No.19636 of 2024)*

Vs.

1.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.



W.P.(MD) No.12191 of 2016

2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Sattur Taluk Office,
Sattur,
Virudhunagar District.

4.S.Jeyalakshmi (Died)

5.Nagarajan

6.Seetharaman .. Respondents

*(R5 & R6 are substituted vide Court order, dated 18.09.2024
in W.M.P(MD)No.5972 of 2023)*

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent in Pa.Mu.G4/31595/2015, dated 16.06.2016 by confirming the order of the 2nd respondent in Na.Ka. Aa2/1643/2015, dated 27.07.2015 and quash the same as illegal and arbitrary.

For Petitioner	:	Mr.M.Thirunavukkarasu
For R1 – R3	:	Mr.P.Thambidurai Government Advocate
For R5 & R6	:	Mr.Sasikumar



W.P.(MD) No.12191 of 2016

WEB COPY

ORDER

The present writ petition has been filed to call for the records relating to the impugned order of the 1st respondent in Pa.Mu.G4/31595/2015, dated 16.06.2016 by confirming the order of the 2nd respondent in Na.Ka. Aa2/1643/2015, dated 27.07.2015 and quash the same as illegal and arbitrary.

2. It is the case of the petitioner that the properties comprised in Natham Survey No.94/1 measuring an extent of 42x13 feet in Chinnakamman Patti Village, Sattur Taluk belonged to one Seeni Naicker. The said Seeni Naicker had constructed a house on the eastern side and kept the western side vacant for storing hay, cattle shed and another materials relating to the cattle. The said Seeni Naicker had 6 sons, namely Seenivasa Naicker, Naranappa Naicker, Ramaiah Naicker, Rengappa Naicker, Venkatasamy Naicker and Veerasamy Naicker. On the death of Seeni Naicker, his sons inherited the property jointly. Due to difference of opinion, the family properties were partitioned under an oral partition 60 years ago and the punja lands were divided into 6



W.P.(MD) No.12191 of 2016

shares. The vacant site on the western side was left in common for common enjoyment. The petitioner would submit that each of the sharers had obtained separate pattas in their names and the vacant site was being enjoyed by the 6 sons of Seeni Naicker. During Natham survey, Survey No.92/1 was subdivided and new survey numbers had been given and vacant site was assigned as Survey No.655/2.

3. When the above vacant site was being enjoyed by the petitioners and the 4th respondent jointly, the sons of the 4th respondent without the knowledge of the petitioners, had applied to have the land in Survey No. 655/2 assigned in their favour on paying the market value and to issue separate patta. The petitioners on coming to know about the same, immediately objected to the same stating that it was in the joint possession of all the parties. However, the 3rd respondent recommended to the 2nd respondent to assign the land in favour of the 4th respondent and on this basis, the same has been assigned in favour of the 4th respondent. The petitioners preferred an appeal to the 1st respondent. The 1st respondent also without properly appreciating the facts, had dismissed



W.P.(MD) No.12191 of 2016

the appeal, giving raise to the present writ petition.

4. The 2nd respondent has not considered the objection of the petitioners who has simply recommended that the same be assigned in favour of the 4th respondent. The 1st respondent through his impugned order, had dismissed the appeal filed by the petitioners stating that the Old Survey No.94/1 has been assigned new Survey No.655 under the Natham Nilavari Scheme. Survey No.655/4 was allotted to the share of father of the petitioners, namely Narayanasamy Naicker, petitioners 6 and 7 were allotted Survey No.655/5 and Survey No.655/3 was allotted to the share of respondents. Since the property in Survey No.655/2 abutted the property of the 4th respondent, the 1st respondent had passed orders for the issuance of patta in favour of the 4th respondent. The same has been challenged by the petitioner.

5. A counter affidavit has been filed by the 1st respondent *inter alia* contending that the petitioners were not enjoying the vacant site and it was only the 4th respondent who was enjoying by parking her car and



W.P.(MD) No.12191 of 2016

other vehicles. Therefore, it was decided to collect the guideline value from the 4th respondent, assigned the lands and grant her patta. The 1st respondent would further submit that the petitioners have not proved their enjoyment.

6. Heard the learned counsels on either side.

7. The contents of the counter affidavit is not reflected in the impugned order. The impugned order only states that since Survey No. 655/2 abuts the 4th respondent's property, it was decided to collect the guideline value and grant patta to her. The authorities have overruled the Adangal extract under the Natham Nilavari Scheme under which Survey No.655/2 has been classified as vacant site. Admittedly, the property is a natham property and it is not denied by the respondents that the property originally belonged to the predecessors in title of the petitioners, namely Seeni Naicker who was enjoying the same. His sons had partitioned the property and patta was granted with reference to all other subdivisions except Survey No.655/2 since the same was kept in common.



W.P.(MD) No.12191 of 2016

WEB COPY

8. No counter affidavit has been filed by the 4th respondent and the 4th respondent has also not rebutted the contentions of the petitioners that the property belonged to Seenai Naicker and it was partitioned between his legal heirs after his demise leaving this property in common.

9. Considering the fact that the property in question is a natham land which was in possession of the petitioners' predecessor in title, the respondents were wrong in assigning exclusive patta to the 4th respondent. Therefore, the impugned orders have to be set aside. Accordingly, the impugned orders, dated 16.06.2016 and 27.07.2015 are set aside.

10. In the result, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

21.10.2024

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

gbg



W.P.(MD) No.12191 of 2016

WEB COPY

To

- 1.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.
- 3.The Tahsildar,
Sattur Taluk Office,
Sattur,
Virudhunagar District.



WEB COPY



W.P.(MD) No.12191 of 2016

P.T.ASHA, J.

gbg

W.P.(MD) No.12191 of 2016

21.10.2024