



W.P.No.10329 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.02.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No. 10329 of 2022
and
W.M.P.Nos. 10048 & 25676 of 2022

S.M.Subbaiah

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St.George, Chennai - 600 017.

2.The District Collector,
Collectorate Buildings,
Salem - 636 001.

3.The Additional Chief Secretary (Lands)
and Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

4.The Revenue Divisional Officer,
Attur, Salem District - 636 102.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in Na. ka. No.8256/2018/K4 dated 19.03.2022 directing



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the 4th respondent to reclassify the lands of the petitioner over an extent of 5.08.5 hectares of patta land in S.F. Nos.789/1 (1.54.0 hectares), 791/2 (0.90.5 hectares), 791/1 (1.16.0) hectares, 789/2 (0.60.0 hectares) and 788/2 (0.88.0 hectares) of Chinnakalrayan Therkunadu Village, Attur Taluk, Salem District as "Tharisu" and to make necessary changes in the village records and consequently by his proceedings in Na. Ka. No.8256/2018/K4 dated 20.01.2020 restoring the lands to Government by entering them in the POB (for future Government purpose (or) shall be utilized for Government purpose) and to quash the same and further direct the respondents to grant patta in favour of the petitioner

For Petitioner : Mrs.Radha Gopalan
for Ms.Bhargavi Gopalan

For Respondents : Mr.M.R.Gokul Krishnan
Addl. Government Pleader for R1 to R4

ORDER

This Writ Petition has been filed challenging the proceedings of the 2nd respondent dated 19.03.2022, directing the 4th respondent to reclassify the lands of the petitioner and to make necessary changes in the village records and also the proceedings dated 20.01.2020, directing restoration of the lands to the Government and a further direction to the respondents to grant Patta in favour of the petitioner.



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2. The case of the petitioner is that under the Act 26 of 1963, certain properties in Chinnakalrayan Therkunadu Village, Attur Taluk, Salem District were classified as Government Assessed Waste Dry (AWD) Lands. One Vellaiyan applied for Patta based on his continuous possession and enjoyment of the property. This application was acted upon and after getting necessary report from the Special Tahsildar, the Revenue Divisional Officer, Salem through proceedings dated 12.03.1979 issued Patta in favour of the said Vellaiyan. On 25.05.1985, Vellaiyan and his wife, who are the Patta holders sold the property in favour of one Nagarajan through a registered sale deed registered as Document No.682 of 1985. This property was thereafter, sold in favour of M/s.Southern Exports through a sale deed dated 26.06.1986 with respect to Survey No.789/2 & 788/2. The other survey numbers namely, Survey Nos.789/1 & 791/2 were purchased by M/s.Southern Exports from Pachaiaimmal and his sons. The petitioner and one Rajasekaran were the partners of M/s.Southern Exports and they started a business dealing with export of granites. After execution of the sale deed, the revenue records were mutated and Patta was also granted in the name of M/s.Southern Exports.



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3. The application submitted for mining lease was also granted by the Government of Tamil Nadu for a period of five years through proceedings dated 06.01.1987. While starting the mining work, a 10 feet road was formed for the purpose of movement of vehicles. Thereafter, the Company sought for renewal of the lease but, the same was not granted. While this process was going on, nearly 50 metres of the mining area was trespassed by the villagers. The petitioner filed W.P.No.30377 of 2016 seeking for the relief of removal of pathway that was put up in the Patta lands belonging to the Company. This Writ Petition was disposed of with a direction to the District Collector to consider the representation made by the petitioner. Pursuant to that order, the District Collector issued proceedings dated 23.09.2017 stating that the land, in which, the road is formed was assigned to the landless hill tribes with certain conditions and the road has been in existence for more than 30 years and used by the public and the same cannot be disturbed and accordingly, the application submitted by the petitioner was rejected.

4. Aggrieved by the above order, the petitioner filed W.P.No.194 of 2018 before this Court. During the pendency of the writ petition, a proposal



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was made whereby, the petitioner was willing to lay a road afresh in his Patta lands beyond 50 metres of the mining area and this could be considered by the District Collector for the purpose of renewal of the mining lease. The matter went back to the Official respondents and no action was taken and therefore, another writ petition was filed before this Court in W.P.No.6606 of 2020 with respect to laying of the parallel road on the basis of the proposal given in the earlier writ petition. While this was pending, steps were taken to take possession of the property and hence, W.P.No.7962 of 2020 was filed forbearing the respondents from interfering with the possession and enjoyment of the lands. A counter affidavit was filed in these writ petitions, at which point of time, it came to light that the subject property has already vested with the Government and the conditional assignment granted was also cancelled.

5. The Writ Petitions thereafter, came up for hearing and while disposing of W.P.No.6606 of 2020, a direction was given to serve the copy of the proceedings dated 13.01.2020 and 20.01.2020 to the petitioner, in order to enable the petitioner to challenge the proceedings. In W.P.No.7962 of 2020, the respondents were directed to maintain status-quo, till the



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challenge is made by the petitioner. Pursuant to the said orders, the present

Writ Petition has been filed before this Court.

6. Heard Mrs.Radha Gopalan, learned counsel for Ms.Bhargavi Gopalan, learned counsel appearing for the petitioner and Mr.M.R.Gokul Krishnan, learned Additional Government Pleader for the respondents.

7. It is quite evident from the proceedings dated 13.01.2020 that the decision to restore the land back to the Government by cancelling the Patta issued earlier was based on the proceedings of the Commissioner of Land Administration dated 26.12.2019. While issuing these proceedings, the petitioner was not put on notice and straight away, the impugned order came to be passed. Pursuant to the same, the proceedings dated 19.03.2022 has been passed directing the 4th respondent to reclassify the lands as "Tharisu".

8. It is not necessary for this Court to go into the merits of this case and deal with the various grounds that were raised by the learned counsel for the petitioner. The impugned proceedings suffer from violation of principles of natural justice and on this ground alone, the same is liable to be interfered



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by this Court.

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9. It is an admitted case that the property was purchased by M/s.Southern Exports, in which, the petitioner is one of the partner. Thereafter, a Patta was also issued and mining lease was also granted and the dispute at that point of time was with respect to the portion of the property which was used by the villagers. During the pendency of those writ petitions, for the first time, the petitioner has been informed that the Patta has been cancelled and the land has vested with the Government and the classification has been changed. These decisions that were taken by the respondent has civil consequences and hence, the minimum that is required is to issue notice to the petitioner and give opportunity before taking the decision. In the absence of the same, the order becomes illegal, since it is in violation of the principles of natural justice.

10. In the light of the above discussion, this Court has no hesitation in interfering with the proceedings of the 2nd respondent dated 20.01.2020 and the consequential proceedings dated 19.03.2022 and accordingly, the same is hereby, quashed. The matter is remitted back to the file of the 2nd



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respondent and the 2nd respondent is directed to issue show cause notice to the petitioner and the petitioner shall be given an opportunity to give their reply and they shall also be given the opportunity of being heard by submitting the relevant documents and thereafter, fresh orders shall be passed on its own merits and in accordance with law. This exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

11. In the result, this Writ Petition is **allowed** with the above directions. This Court has already protected the possession of the petitioner and the same will continue till the final orders are passed by the 2nd respondent. No costs. Consequently, connected miscellaneous petitions are closed.

04.02.2025

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Internet : Yes/No
Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No

To:

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N.ANAND VENKATESH, J.



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