

W.A(MD) No.242 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 13.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD) No.242 of 2023
and
C.M.P.(MD)No.2991 of 2023**

A.Peer Mohammed

... Appellant / Petitioner

Vs

**1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George,
Chennai.**

**2.The District Collector,
Pudukkottai District,
Pudukkottai.**

**3.The Tahsildar,
Aranthangi,
Pudukkottai District.**

... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order made in W.P.(MD)No.14209 of 2013, dated 22.04.2022 and allow the writ appeal.

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For Appellants : Mrs.H.Jasima Yasmin
for M/s.Ajmal Associates

For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

This writ appeal is directed against the order dated 22.04.2022 made in W.P.(MD)No.14209 of 2013 filed by the appellant herein.

2. The appellant was in occupation of 21 cents of land in Survey No.18/1, Rethinakkottai Village, Aranthangi Taluk and running a petroleum bunk. The appellant's occupation was regularised by the respondent by issuing G.O.Ms.No.506, Revenue Department, dated 16.11.2001. The appellant was called upon to pay 14% of the land value as lease rent. When the G.O was issued, the land value was fixed at Rs.3,86,988/-. The land value was subsequently increased and the appellant was called upon to pay a sum of Rs.2,71,557/- towards lease rent for three years from 2001 to 2004. Questioning the same, the appellant filed writ petition before this Court.



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3. The subsequent enhancements of the lease rent were also on the same basis. Challenging the same, the appellant filed one more writ petition before this Court and the appellant succeeded. The ground on which the writ Court interfered was that the details of the value were not furnished to the appellant and that the land value had been fixed arbitrarily. Every time, the matter was remanded. Following remand, order dated 10.07.2013 was passed calling upon the appellant to pay a sum of Rs.44,18,059/-. The appellant filed W.P.(MD)No.14209 of 2013. The writ petition was dismissed by the learned single Judge vide order dated 22.04.2022 in the following terms:-

“11. Admittedly, the petitioner was not an original lessee, by which, the land was allotted for lease. The petitioner's vendor has obtained the lease of 17 cents in Survey No.18/1 of Rathanakottai village and occupied some more land and now, they are in possession of 241cents. The lease was originally granted upto the year 1989 and thereafter, it was not extended. While so, the petitioner purchased the lease right in the year 1994 when the lease was not in existence. However, as per G.O.Ms.No.506, Revenue Department, Dated 16.11.2001, the lease was extended from 01.07.1989 to 30.06.2001 and the lease rent was also fixed based on the existing rent as per G.O.Ms.No.460, Revenue Department dated 04.06.1998, by fixing 2% of the land value and 13% surcharge for the same. Thereafter, a demand notice was issued in Na.Ka.No.9005/01.AA1 dated 10.04.2007. The said demand notice was challenged by the



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petitioner in W.P.(MD)No.2138 of 2009. This Court, by order dated 08.01.2010, allowed the writ petition by setting aside the demand notice dated 10.04.2007 with liberty to the respondents to issue a fresh demand notice for local cess and local cess surcharge as per law by giving full particulars and based on the demand. Only thereafter, the impugned demand notice was issued claiming Rs. 44,18,059/- as arrears of lease rent till 30.07.2013. However, the third respondent has not furnished the details as to how the amount has been arrived at. The details furnished reveal that 14% was calculated as lease rent. But, the lease was extended vide G.O.Ms.No.506, Revenue Department, dated 10.11.2001, by fixing the lease rent as 2% of the land value plus 13% of surcharge for the same. It is not known as to how the lease amount has been fixed at 14%. It appears that the respondents are also facilitating the petitioner by providing reasons for filing this writ petition and taking advantage of the same, the writ petitioner is also in occupation of the property, without extending the lease period and without paying the lease rent from the year 2001. Further, the petitioner claims that he is liable to pay Rs.3,80,368/- as the rent, till 30.06.2013. However, he has not paid even that amount also. On this ground, the writ petition is liable to be dismissed.”

Aggrieved the same, this writ appeal has been filed.

4. The learned counsel appearing for the appellant submitted that the learned single Judge had wrongly assumed that the appellant was in arrears. He added that the appellant has been remitting a sum of

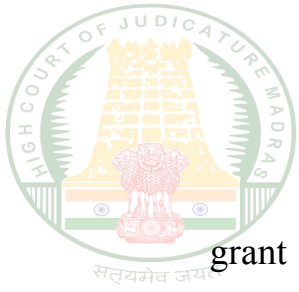


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Rs.20,000/- every month and the same was also accepted by the authorities. According to the counsel, all that the appellant demanded was that the land value must be appropriately fixed and there should not be any arbitrary exercise. No doubt, the contentions of the learned counsel for the appellant are persuasive.

5. But we are unable to interfere for the simple reason that Survey No.18/1 happens to be a water poromboke. In fact, G.O.Ms.No.506, Revenue Department dated 16.11.2001 itself acknowledges the fact that Survey No.18/1, Rethinakottai Village, Aranthangi Taluk, Pudukkottai District has been classified as “Vannankulam Poromboke”.

6. The learned Additional Government Pleader draws our attention to the common order dated 05.03.2024 passed by the Green Bench in W.P.(MD)No.31268 of 2023 etc., The Green Bench had directed that all the encroachments in “Vanankulam Poromboke” in Survey No.18/1 should be cleared. When the appellant is in occupation of the water body, we have to hold that granting lease in his favour was not legal. For this reason, we decline to interfere. The writ appeal is dismissed. We



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grant liberty to the appellant to file an appeal before the jurisdictional District Collector questioning the monetary demand made by the Tahsildar. This liberty can be availed by the appellant provided the appellant vacates from the petition mentioned premises. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
13.06.2025

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

- 1.The Secretary to Government,
Revenue Department,
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Chennai.
- 2.The District Collector,
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- 3.The Tahsildar,
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G.R.SWAMINATHAN, J.

AND



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K.RAJASEKAR, J.

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