



W.P.(MD)No.5114 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **10.03.2025**

Delivered on : **14.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.5114 of 2024

and

W.M.P.(MD)No.4896 of 2024

1. N.Rajan
 2. Sudanthirarajan .N
 3. Dhanalakshi .R
 4. Rethidevi .S
- ... Petitioners

/Vs./

1. The Government of Tamilnadu,
Rep.by its, Principal Secretary to the Government,
Revenue Department, Secretariat,
Fort St. George, Chennai.
2. The Principal Secretary /
The Commissioner of Land Reforms,, Ezhilagam,
Chepauk, Chennai 600 005.
3. The Director of Land Reforms,
Ezhilagam, Chepauk, Chennai 600 005.
4. The Tamii Nadu Bhoodan Yagna Board,
Represented by its Chairman, Chennai.



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5. The Revenue Divisional Officer,

Sattur, Virudhunagar District.

6. The Tahsildar

Vembakottai Taluk,

Virudhunagar District.

7. Rama Subbu

8. Muthu Raj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records related to the proceedings of the Revenue Divisional Officer Sattur dated 23.09.2022 in O.Mu.A3/3791/2022 and the mutation of the revenue records in respect of the lands in survey Filed number 156 Kananjampatti Village Vembakottai Taluk Virudhunagar District admeasuring 5.86 acres from the name of the petitioners in patta No. 778 to the name of the Tamil Nadu Bhoodan Yagna Board Chennai in Patta No. 1401 and quash the same and consequently direct the respondents to restore the revenue records to the name of the petitioners forthwith.

For Petitioners : Mr.N.Dilipkumar

For Respondents : Mrs.S.Jeyapriya
Government Advocate for R1-6

: Mrs.P.Kalaiyarasi Bharathi for R7&8



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ORDER

This Writ Petition has been filed challenging the proceedings of the Revenue Divisional Officer, Sattur, dated 23.09.2022 mutating the revenue records in the name of the Tamil Nadu Bhoodan Yagna Board and to consequently, restore the revenue records in the name of the petitioners.

2. The petitioners are contending that the subject property that belonged to Karuppaiah Thevar, were included in the settlement land register of the year 1948, reflecting the said Karuppaiah Thevar's name. Subsequently the said Karuppaiah Thevar sold the subject property to C.Balasubramaniam in and by registered sale deed dated 28.07.1978 and pursuant to the said deed, the said C.Balasubramaniam also mutated patta and other revenue records in his name. The petitioners, after carrying out due diligence purchased the property from the said C.Balasubramaniam, in by the sale deed dated 30.11.2006, registered as document No. 45/2007. The revenue records were also mutated in the name of the petitioners and patta was also issued jointly in the name of the petitioners.



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3. It is also the contention of the petitioners that one Ramasubbu, who is the seventh respondent, in order to settle the personal scores against the petitioners, filed several cases against the petitioners and in all the litigation, the petitioners alone succeeded. After exhausting all avenues, according to the petitioners, the seventh respondent set up the eighth respondent to make a vexatious complaint as if the subject property belongs to the Tamil Nadu Bhoodan Yagna Board. The revenue authorities, acting unilaterally and arbitrarily have mutated patta in the name of the Board, removing the names of the petitioners, without even issuing any notice to the petitioners or conducting any enquiry. The petitioners, therefore, have approached this Court challenging the said impugned order passed by the fifth respondent in and by proceedings dated 23.09.2022.

4. The sixth respondent has filed a counter contending that the petitioners had purchased Bhomidhana lands and after coming to know about the possession of Bhomidhana lands at the hands of the writ petitioners, the authorities proceeded to issue Section 7 of the Tamil Nadu Land Encroachment Act, 1905, notice to the petitioners to



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handover possession of the subject lands. The allegation of the suits being engineered by the respondents 7 and 8, colluding with the officials is denied. It is further contended that the subject lands were also surveyed in the presence of the petitioners and the patta was rightly mutated in favour of Bhomidhana Board. It is also contended that the property was originally donated by one N.P.S.S.Nataraja Nadar for the welfare of landless poor and the said Karuppaiah Thevar, under whom the petitioners claim right did not have any title to the subject lands. The writ petition is therefore, sought to be dismissed, in view of Section 11 of the Tamil Nadu Bhoodan Yagna Act, 1958, which mandates that all lands donated for the purpose of Bhoodan, whether before or after the commencement of the Act, will have to be confirmed, registered and mutation of patta has to take place in favour of the Board. Therefore, according to the official respondents, only in order to protect the land till the completion of the formation, the revenue records alone have mutated. Further, Section 7 of the Tamil Nadu Land Encroachment Act, 1905 notice was issued to the petitioners only to show cause and the petitioners have rushed to the Court taking advantage of procedural lapses on the part of the Board.



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5. The learned counsel for the respondents 7 and 8 would contend that the petitioners are occupying only Bhoodhana lands and the complaint lodged by the eighth respondent had nothing to do with the litigation between the petitioners and the seventh respondent. Therefore, the respondents 7 and 8 also sought for dismissal of the writ petition.

6. I have heard Mr.N.Dilipkumar, learned counsel for the petitioners, Mrs.S.Jeyapriya, learned Government Advocate for the respondents 1 to 6 and Mrs.P.Kalaiyarasi Bharathi, learned counsel for the respondents 7 and 8.

7. According to the learned counsel for the petitioners, Mr.N.Dilipkumar, the change of patta in the name of Bhomidhana Board was admittedly without giving any notice to the petitioners and further, he would take me through the provisions of the Tamil Nadu Bhoodan Yagna Act and contend that none of the provisions have been adhered to by the authorities. He would further contend that the subject survey number was never donated under the Bhoodhan Scheme and the entire



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exercise was *malafide* on the part of the private respondents, who have been instrumental for the officials to even initiate action against the petitioners.

8. In fact, the seventh respondent has filed a suit against the first petitioner, seeking damages for alleged defamation committed by the defendant and the suit in O.S.No.63 of 2017 was also dismissed by the learned Principal District and Sessions Judge, on 19.12.2022. Therefore, all the litigations are ended unsuccessful.

9. The learned counsel would also take me through the various documents that have been filed in support of the claim of the petitioners, especially, to title over the subject lands. In any event, the learned counsel for the petitioners would contend that the officials were not justified in straightaway effecting mutation of patta in the name of the Board, without giving an opportunity to the petitioners and therefore, he would contend that on the very ground of violation of principles of natural justice, the impugned proceedings will have to be quashed.



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10. The learned counsel for the petitioners would further submit that the donor viz., N.P.S.S.Nataraja Nadar, was not the owner of S.F.No. 156 at any point of time and therefore, even assuming he had donated the said lands, no legitimate right would flow under said gift deed executed by him. The learned counsel for the petitioners would therefore pray for the writ petition being allowed as prayed for.

11. Per contra, Mrs.S.Jeyapriaya, learned Government Advocate, would submit that the petitioners are occupying the lands belonging to the Bhoothana Board and without attending the enquiry, conducted by the officials, the petitioners have rushed to this Court. She would further contend that the petitioners can always appear for the enquiry and produce all relevant documents and substantiate their claims. She would further submit that once lands are donated to the Board, the Board was entitled to effect mutation and in the instant case only in order to safeguard the properties of the Board, patta has been mutated in its name, pending other formalities. She would further submit that only with reference to the provisions of the Tamil Nadu Land Encroachment Act, Section 7 notice have been issued to the petitioners and she would



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therefore contend that there are no merits in the writ petition.

12. The learned counsel for the respondents 7 and 8 denied the allegations of the petitioners that the seventh respondent having lost in all litigation, has set up the eighth respondent and lodged a vexatious complaint as if the petitioners are occupying lands belonging to the Bhoomidhana Board. The learned counsel would therefore justify the complaint lodged by the eighth respondent, to take action against the occupation of bhoomidhana lands at the hands of the petitioners.

13. I have carefully considered the submissions advanced by the learned counsel for the parties.

14. As seen from the copy of the settlement register in the year 1948, S.F.No.156 has been classified as Ryotwari lands and patta has been issued in favour of Karuppaiah Thevar under whom the petitioners' claim title. The extent of land reflected in the said settlement register is 5.86 acres, which is the property that has changed hands from said Karuppaiah Thevar and come into the hands of the writ petitioners. All



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the transactions are by way of registered sale deeds. The petitioners have also filed encumbrance certificate dated 08.09.2006 in S.F.No.156, to fortify their contention that prior to their purchase, due diligence was carried out and no gift deed as claimed by the respondents was executed by any person much less N.P.S.S.Nataraja Nadar. I also find from the 'A' Register that S.F.No.156 is classified as Ryotwari punja lands and mutation was in favour of C.Balasubramaniam, who had been issued patta No.335. It is from the said C.Balasubramaniam that the petitioners had purchased the subject land of 5.86 acres patta No.335 in their favour is also produced along with the typed set of papers. I also find one another encumbrance certificate dated 13.09.2006 for the period 01.01.1976 to 31.12.1986, where also I do not find any entry pertaining to the gift of land in S.F.No.156. The petitioners have also been granted Registration Certificate of the Firm, Sri Narayana Fire Works Factory at S.F.No.156 on 22.07.2010, under the provisions of the Indian Partnership Act, 1932. That apart, the petitioners 1 and 2 have also filed a suit in O.S.No.164 of 2012 against the seventh respondent, seeking a permanent injunction to restrain the seventh respondent herein from interfering with the plaintiff's peaceful possession and enjoyment of the subject land



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measuring 5.86 acres. The said suit, after elaborate trial, came to be decreed in favour of the petitioners. The first appeal preferred by the seventh respondent in A.S.No.25 of 2014 was dismissed by the Sub Court, Sivakasi, on 18.04.2015.

14. Aggrieved by the said concurrent findings, the seventh respondent also preferred a second appeal in S.A.(MD)No.69 of 2016 before this Court, which also came to be dismissed by this Court on 31.10.2017, confirming the decree in favour of the petitioners. In the interregnum period, the seventh respondent also approached this Court under Article 226 of the Constitution of India and filed a writ petition in W.P.(MD)No.1785 of 2014, seeking to quash the proceedings of the District Revenue Officer, Virudhunagar, dated 01.08.2013, alleging that the petitioners are illegally manufacturing fire works, without proper licence. The said writ petition was also dismissed, holding that the period of licence granted was already over. Thus, it can be seen that the seventh respondent has been continuously trying to interfere with the right and possession of the petitioners and as rightly contended by Mr.N.Dilipkumar, learned counsel for the petitioners, the seventh



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respondent has been unsuccessful through out. Thereafter, the eighth respondent has approached the authorities with a complaint that the lands under the occupation of the petitioners are Bhoodhana lands. Thereafter, the eighth respondent filed a writ petition in W.P.(MD)No.7500 of 2022 claiming that the petitioners have encroached into S.F.No.156 and that the said lands have been donated under the Bhoodhana Scheme.

15. From the photographs filed along with the typed set of papers, it is also seen that the respondents 7 and 8 are not strangers and they have made all efforts to ensure that the petitioners do not enjoy the subject lands. There is force in the submissions of the learned counsel for the petitioners that the eight respondent has only been set up by the seventh respondent, after unsuccessfully litigating, across various subjects, against the petitioners.

16. Be that as it may, even from the admitted stand of the official respondents, it is seen that the petitioners' possession of the subject lands and use of the same for a fire works Factory and 13 small units as well as a temple, have been completely fenced by the petitioners and it is under



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their occupation. The respondents also admit that the provisions of the Tamil Nadu Bhoodan Yagna Act, 1958 are yet to be complied with, excepting for stating that a Section 7 notice under the Tamil Nadu Land Encroachment Act, 1905, have been issued to show cause as to why the petitioners should not be evicted from the subject lands. The flow of title in favour of the petitioners is established right from 1948 itself. The settlement registered reflected the name of erstwhile owner Karuppaiah and subsequently in and by registered sale deed, for lawful consideration alone, the property has changed hands and finally came to vest with the writ petitioners. The revenue records have always been mutated in the name of Karuppaiah, then in the name of the successor in interest, Balasubramanian and subsequently in the names of the writ petitioners in patta No.778 as early as in September 2007. At no point of time, there has been any objection to the enjoyment of the subject lands by the private individuals and as seen from the encumbrance certificate for the relevant periods as well, there is no gift or settlement deed by any person as well, more so, by N.P.S.S.Nataraja Nadar, in favour of Bhoothana Board. Any gift deed of lands of a value exceeding Rs.100/- can be donated by a private individual, only by means of a registered gift /



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settlement deed and not otherwise. Though it is contended by the respondents that the land was gifted to the Board, by N.P.S.S.Nataraja Nadar, the respondents have not been able to settle the said registered gift deed in favour of the Board. Even in these proceedings, despite the petitioners questioning the truth and validity of the said settlement deed.

17. Further, even under the provisions of the Tamil Nadu Bhoodan Yagna Act, 1958, elaborate procedures have been set out for donation of lands under Section 16. Section 17 contemplates hearing of objections of the interested parties and a declaration to be made under Section 16(3) regarding donation of lands to the Board. In fact, even procedure for donation the land prior to the commencement of the Act has also been elaborately set out in Section 20 of the Act. The respondents are unable to even assert the date, the details of gift deed, by which the said N.P.S.S.Nataraja Nadar donated his land to the Board. In any event, even from the stand taken by the official respondents, there is absolutely no evidence to hold that the procedure contemplated under the Act has been followed by the respondents at the time of alleged donation of the lands by N.P.S.S.Nataraja Nadar. The contention of the respondents that the



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petitioners have not established the lawful title of Karuppaiah Thevar cannot be countenanced for the simple reason that in the land settlement register as early as in 1948, the said Karuppaiah Thevar's name finds a place and therefore, it is not open to the official respondents to even contend that the said Karuppaiah Thevar had no right or title to the subject lands. The petitioners have clearly established a legal flow of title in their favour and they were also clinchingly established the factum of being in physical possession of the said lands. More importantly, the petitioners were not even put on any notice before the mutation of patta in the name of the Board. When the patta had already been mutated in the name of the petitioners, the authorities ought to have given an opportunity to the petitioners to contest the claim of the Bhoothana Board for transfer of patta in their names.

18. The counter affidavit filed by the official respondents, does not indicate that any such notices were issued to the petitioners before the impugned order came to be passed. Though references have been made that an enquiry was conducted by the Village Administrative Officer, the same would not tantamount to a fair opportunity being given to the



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petitioners, for meeting the claim of the Bhodhana Board for mutation of the revenue records in its favour.

19. I have already found that the provisions of the Act have also not been followed. The Division Bench of this Court in *Madras State Bhoodan Yagna Board V. Subramanna Athithaa* reported in *1965-SCC Online MAD.199* has clearly laid down that only if the donation satisfies the requirement of the various provisions of the Act, the lands would vest in the Board and not otherwise. Though the Tahsildar has filed a counter stating that mutation was effected only for safeguarding the lands, till the completion of registration process, no steps are shown to have been taken leave alone compliance as required under the Act.

20. For all the above reasons, I am inclined to quash the impugned proceedings on the file of the Revenue Divisional Officer, Sattur, dated 23.09.2022 as well as the mutation in respect of S.F.No.156, Kananjampatti Village, Vembakkottai Taluk, Virudhunagar District, in the name of the Tamil Nadu Bhoodana with regard to patta No.1401. Consequently, the petitioners are entitled to restoration of revenue records in their favour, including patta, which has been unilaterally and



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arbitrarily changed to the name of the Tamil Nadu Bhoodhana Board, without following the mandatory provisions of the Tamil Nadu Bhoodan Yagna Act.

20. In fine, the writ petition is allowed as prayed for and the fifth and sixth respondents shall remove the name of Tamil Nadu Bhoodhana Board in patta No.1401 and restore the patta in the name of the writ petitioners. The said exercise shall be carried out within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
LS

14.03.2025

TO:-

1. The Principal Secretary to the Government,
Revenue Department,
Secretariat, Fort St. George,
Chennai.



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2. The Principal Secretary /
The Commissioner of Land Reforms
Ezhilagam,
Chepauk,
Chennai 600 005.
3. The Director of Land Reforms,
Ezhilagam,
Chepauk,
Chennai 600 005.
4. The Chairman,
Tamil Nadu Bhodan Yagna Board,
Chennai.
5. The Revenue Divisional Officer,
Sattur,
Virudhunagar District.
6. The Tahsildar
Vembakottai Taluk,
Virudhunagar District.



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P.B. BALAJI, J.

LS

Pre-delivery Order made in
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Dated:
14.03.2025