



W.P.(MD) No.21449 of 2022

BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

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RESERVED ON : 22.08.2025

PRONOUNCED ON : 29.08.2025

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.(MD) No.21449 of 2022

- 1.A.Raj
- 2.A.Chelladurai
- 3.A.Edward
- 4.A.Peter
- 5.A.Jeyaseelan
- 6.Valarmathi

... Petitioners

Vs

1. The Special Commissioner and
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 05.
2. The District Collector,
Theni District, Theni.
3. The District Revenue Officer,
Theni.
4. The District Forest Officer,
Theni District, Theni.
5. The Forest Settlement Officer,
Bodinayakkanur, at Andipatti,
Having Office at Taluk Office Campus,
Andipatti, Theni District.



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6. The Tahsildar,
Bodinayakkanur,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to forthwith grant patta to the petitioners herein in respect of the land comprised in S.Nos. 404 and 405 of Bodi West Hills Village, Bodinayakkanur Taluk, Theni District measuring 1.30 acres and 14.49 acres respectively as per the order passed by Principal Seat of this Court in CMSA.No.33/1983 dated 05.11.1990 and in the light of the recommendation made by the 3rd respondent to the 1st respondent in Na.Ka.No.57865/2004/Aa1 dated 23.10.2005 within time frame fixed by this Court.

For Petitioners : Mr.G.Prabhu Rajadurai
for Mr.A.Rahul

For Respondents : Mr.Veera Kathiravan,
Addl. Advocate General
assisted by
Mr.D.S.Nedunchezian,
Govt. Advocate

ORDER

This Writ Petition is filed seeking issue of Writ of Mandamus



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directing the respondents to grant patta to the petitioners in respect of the land comprised in S.Nos.404 and 405 of Bodi West Hills Village, Bodinayakkanur Taluk, Theni District measuring 1.30 acres and 14.49 acres respectively, based on the order passed by this Court in C.M.S.A.No.33 of 1983 dated 05.11.1990 and also in the light of the recommendation made by the third respondent to the first respondent in Na.Ka.No.57865/2004/Aa1 dated 23.10.2005.

2. According to the petitioners, the subject properties originally belonged to their grandmother Mariyabackiammal and the petitioners' family have been cultivating the said lands for more than 65 years. The Government of Tamil Nadu issued a notification under Section 4 of The Tamil Nadu Forests Act, 1882 proposing to reserve 10376.89 acres of land in Bodi West Hills as forest block. A proclamation under Section 6 of Tamil Nadu Forest Act, 1882 was also issued on 13.07.1977. The petitioners' grandmother Mariyabackiammal filed a claim petition before Forest Settlement Officer, Bodi seeking exclusion of subject lands from notification. Her claim was dismissed by the Forest Settlement Officer. The said order was challenged by Mariyabackiammal in C.M.A.No.90 of 1978 on the file of District Court, Madurai. The said CMA was allowed



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and the matter was remanded back to the Forest Settlement Officer for fresh disposal. After remand, the matter was considered afresh by Forest Settlement Officer and again the claim of the petitioners' grandmother was rejected. Challenging the said order, Mariyabackiammal preferred an appeal in C.M.A.No.4 of 1982 on the file of the District Court, Madurai North, Dindigul. The learned District Judge dismissed her appeal. Challenging the same, the petitioners' grandmother Mariyabackiammal preferred an appeal before this Court in C.M.S.A.No. 33 of 1983. The said CMSA was allowed on 05.11.1990 holding that subject lands have not been proved to be the “land at the disposal of the Government” within the meaning of The Tamil Nadu Forest Act, 1882. It was also observed in the said judgment that Mariyabackiammal's predecessors in interest have been in possession of the land as ryots. Thus, the appeal preferred by Mariyabackiammal was allowed and the order passed by the Forest Settlement Officer as well as the District Court were set aside. The petitioners claiming themselves as legal heirs of said Mariyabackiammal submitted a petition before the third respondent seeking issuance of patta for the subject lands. The third respondent called for a report from the Forest Settlement Officer, Bodi and he submitted a report on 17.09.2002 expressing his consent for grant

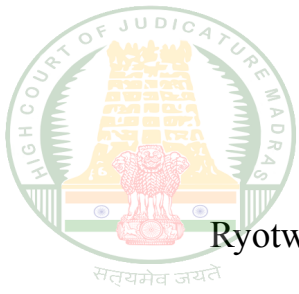


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of patta. Thereafter, the third respondent by his proceedings in Na.Ka.No.57865/2004/AA1 dated 23.10.2005, recommended to the first respondent to grant patta to the petitioners. In these circumstances, the petitioners submitted a representation on 25.06.2022 to the respondents seeking issuance of patta and the same has not been considered. Hence, the petitioners have come before this Court.

3. The learned counsel appearing for the petitioners would submit that this Court in the judgment passed in C.M.S.A.No.33 of 1983 clearly held that the petitioners' predecessors in interest had been in possession of the subject property as ryots and therefore, the subject property cannot be treated as a land at the disposal of the Government within the meaning of The Tamil Nadu Forest Act, 1882 and therefore, the notification issued under the Tamil Nadu Forest Act, 1882 is nullified and as a consequence, the petitioners are entitled to issuance of patta.

4. The learned Additional Advocate General appearing for the respondents by drawing the attention of this Court to the counter affidavit filed by the 5th respondent would submit that after coming into force of "The Tamil Nadu Estates (Abolitions and Conversion into



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Ryotwari) Act, 1948 [Act 26 of 1948]” (hereinafter referred to as “Act 26 of 1948”), the petitioners' grandmother submitted a petition for issuance of patta and the same was rejected by the Settlement Officer by his proceedings in D.Dis.S.R.19A, 49/PKM/64, dated 18.09.1964. Thereafter, the land was notified as reserved forest as per Section 4 of The Tamil Nadu Forest Act, 1882 on 03.01.1977. The learned Additional Advocate General submitted that the order passed by the Settlement Officer rejecting the request of the petitioners' predecessor in interest seeking issuance of patta under Act 26 of 1948 had attained finality, as the said rejection order was not challenged in the manner known to law. Therefore, the petitioners cannot claim patta under the provisions of Act 26 of 1948. He further submitted that the Bodi West Hills, in which the subject property is situated was notified under Section 2(a) of the Tamil Nadu Hill Areas (Preservation of Trees) Act 1955, vide G.O.Ms.No.334, Environment and Forest (FR.III) Department dated 16.11.1998.

5. Heard the arguments of Mr.G.Prabhu Rajadurai, representing Mr.A.Rahul, learned counsel on record for the petitioners and Mr.Veera Kathiravan, learned Additional Advocate General assisted by Mr.D.S.Nedunchezian, learned Government Advocate appearing for the



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respondents and perused the materials available on record.

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6. It is seen from the counter affidavit filed by the fifth respondent, the petition filed by the petitioners' predecessor in interest seeking issuance of patta under the provisions of Act 26 of 1948 was rejected by the order passed by the Settlement Officer dated 18.09.1964. However, no such rejection order has been produced before this Court. In fact, this Court in the judgment in C.M.S.ANo.33 of 1983 also observed that Forest Department failed to produce the rejection order before it. If the contention raised in the counter affidavit of the 5th respondent that the request of the petitioners' predecessor in interest for issuance of patta under Section 26 of 1948 was already rejected by the Settlement Officer and the same had become final is correct, then the petitioners are not entitled to seek issuance of patta as on today as the cutoff date fixed by G.O.Ms.No.714 issued by the Tamil Nadu Commercial Taxes and Religious Endowments Department, dated 29.06.1987, had expired long back.

7. In such circumstances, there may not be any scope for the petitioners to seek patta outside the scope of such enactment and only the



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course open to the petitioners would be to approach the civil Court seeking declaration of their right over the subject properties. In the absence of any material before this Court regarding rejection of the petitioners' claim, this Court is not in a position to come to a definite conclusion with regard to the rival claim made by the parties. As per the order passed in C.M.S.A.No.33 of 1983, the rejection order passed by the Forest Settlement Officer and the affirming order passed by the District Judges have been set aside. However, there is no positive direction in the said judgment directing the respondents therein to issue patta to the petitioners. It is also not clear that what is the impact of notification issued under Section 16 of The Tamil Nadu Forest Act, 1882, declaring the subject land as reserved forest. The said notification was published in the District Gazette on 08.11.1988 prior to delivery of judgment in the above mentioned C.M.S.A. It is not clear whether subsequent to the judgment passed in C.M.S.A, the subject lands were de-notified based on the said judgment.

8. In the light of the rival contentions raised by the petitioners as well as the respondents in their affidavit and counter affidavits, this Court without expressing any opinion on the merits of the claim made by



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the respective parties, is inclined to direct the first respondent to consider the representation of the petitioners dated 25.06.2022 and pass final orders on its own merits within a period of twelve (12) weeks from the date of receipt of a copy of this order. It is made clear that any observations made by this Court in this order will not affect the rights of the parties and the request made by the petitioners shall be considered by the first respondent on its own merits in the light of the materials produced before him.

9. With these directions, this Writ Petition stands disposed of.

There shall be no order as to costs.

29.08.2025

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Index: Yes/No

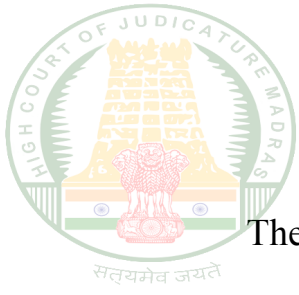
Internet: Yes/No

Neutral Citation: Yes/No

To

1. The Special Commissioner and
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 05.

2. The District Collector,



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S.SOUNTHAR, J.

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