



W.A.MD) No.1370 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on:24.02.2025

Delivered on: .03.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

W.A(MD)No.1370 of 2022

and

C.M.P(MD)No.10801 of 2022

- 1.The Commissioner/Director,
Tamil Nadu Boomidhana Board,
Commissioner of Land Reforms,
Chepauk, Chennai.
- 2.The District Collector,
Office of the District Collector,
Sivagangai District.
- 3.The District Revenue Officer,
Office of the District Revenue Officer,
Sivagangai District,
Sivagangai.
- 4.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sivagangai District,
Sivagangai.
- 5.The Tahsildar,
Office of the Tahsildar,



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Kalaiyarkovil Taluk,
Sivagangai District.

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6.The Village Administrative Officer,
Paruthikanmoi Group,
Kalaiyarkovil Taluk,
Sivagangai District.

... Appellants/ Respondents

-Vs-

M.Sivakumar

...Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause XV of Letters of Patent Appeal, against the order dated 24.06.2022 made in W.P(MD)No.11003 of 2022 passed by this Court.

For Appellants : Mr.Veerakathiravan,
Addl. Advocate General, assisted by
Mr.S.Vinodh, Government Advocate

For Respondent : Mr.T.Villavankothai

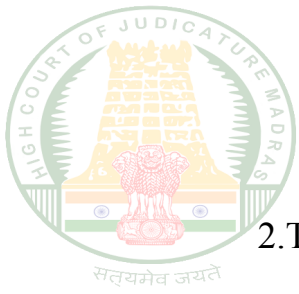
JUDGMENT

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

The intra Court appeal is preferred by the State on being aggrieved by the order of the learned single Judge of this Court in W.P(MD)No.11003 of 2022, dated 24.06.2022.



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2.The Writ Petitioner viz., Mr. Sivakumar in his petition had contended that the property in survey number 54/1 to an extent of 3 acres 88 cents, situated at Paruthikanmai Village, Kalyaiyarkovil Taluk, Sivaganga District, belongs to his maternal great grandfather viz., Mr Karuppaiah Pillai. In the Settlement Land Register(SLR), the said Karuppaiah Pillai name is shown as the cultivator of the land. Despite that by wrong classification of the property of the land as Bhoothan land, the Revenue Authorities are not issuing patta to him, inspite of submitting documentary evidences such as SLR entry, kist receipts and adangal, besides, the Civil Court decree declaring the title over the property in favour of descendants of Karuppaiah Pillai and the preliminary decree in favour of his mother in the partition suit .

3.The case of the writ petitioner is that his mother had executed a Will dated 09.12.2019 in his favour and died on 05.06.2021. While so, he being the lawful owner of the property and having valid title, is entitled to get patta for the land and the same cannot be denied for irrelevant reasons. The writ petitioner had stated that against the decree of declaration of title passed in O.S.No.174 of 2007 by the District Munsif Court, Sivagangai, the state has not filed any appeal. That was followed by the preliminary decree in the partition suit between his mother and maternal Uncle. In the partition suit, his mother succeeded in her claim of half



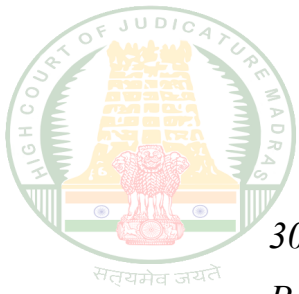
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share in the property. In the partition suit, after the preliminary decree dated 06.03.2016, she executed a Will dated 09.12.2019 and died before passing of final decree. However, by virtue of her Will dated 09.12.2019, he was entitled to get Patta. The petitioner's representations for grant of patta, based on the Civil Court's decree and his mother's Will, to be considered in accordance with law. Hence, issuance of Mandamus sought.

4.The State had come with the fact that by virtue of gift deed by Soosai Manikam Pillai in favour of Bhoomidhana Board, the property in survey number is vested with Bhoodhan Board and necessary mutation of revenue records been carried out four decades ago. The writ petitioner or his mother have no title over the property and the survey number and boundaries shown in the Civil Court decree does not tally with the land gifted to Bhoodhan Board by Soosai Manikam Pillai .

5.The portion of the Civil Court judgement relied by the writ petitioner is as under:-

“10.In this case the certified copy of the gift deed executed by Soosaimanickampillai in favour of the Boomidhana Board was filed as Ex.A2. A perusal of the said document which is dated



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30.12.1953 goes to show that one Soosai Manickam Pillai of Paruthi Kanmoi Village in Sivagangai Taluk, Ramnad District had executed gift in favour of Boomidhana Board in respect of property situated in Iyurulithatchan Kanmoi Village of Sivagangai Taluk, Ramnad District to the extent of 6 acres 60 cents. Thus, the mere perusal of the said documents goes to show that the said Soosai Manickam Pillai had executed gift deed in favour of Boomidhana Board only in respect of property situated in Iyurulithatchan Kanmoi Village and not the property situated in Paruthi Kanmoi Village as claimed by the defendants.

11. Further a perusal of Exs.C1 and C2 clearly goes to show that the four boundaries found in Ex.A.2 is not at all tallying with the four boundaries found in the field. The V.A.O who deposed on behalf of the Government has also categorically admitted that during the commission proceeding the boundaries as found in the gift deed could not be correlated.”

6.The learned single judge after hearing the counsels on either side, has passed the following order. The said order is impugned in the Writ Appeal filed by the State.

“The petitioner seeks issuance of patta in respect of the petition mentioned land. It is seen that the land in question forms part of a larger extent and it stood in the name of Tamil Nadu Boomidhana Board. Contending that the land in question

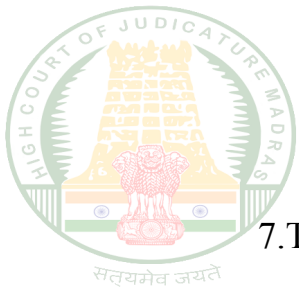


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was never gifted to Tamil Nadu Boomidhana Board, the writ petitioner's maternal uncle filed a suit in O.S.No.174 of 2007 before the District Munsif Court, Sivagangai. The suit was decreed in favour of the plaintiff on 22.08.2012. As on date, the writ petitioner is armed with a decree granted by the jurisdictional civil Court. Of course, that the suit pertains to the entire 3 acres and 87 cents in Survey No.54/1 in Paruthi Kanmai Village. It is stated that subsequently, it was partitioned and the petitioner is now laying claim on half of the suit schedule property.

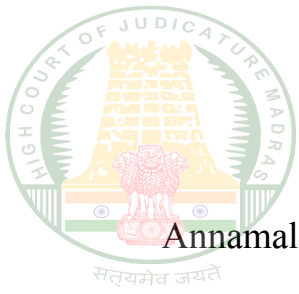
3. The petitioner's stand is opposed by the respondents by contending that an appeal has been filed challenging the said judgment and decree. It is interesting to note that even though the Judgment and Decree in O.S.No.174 of 2007 was passed on 22.08.2012, only in the year 2022, an appeal is said to have filed before the Sub Court, Sivagangai.

4. I cannot decline the petitioner's request on the ground that appeal has been filed. Of course, if the respondents succeed in the said appeal, the petitioner's rights will have to give way. Till then, the petitioner is entitled to issuance of patta as sought for. The third respondent is directed to issue patta in favour of the writ petitioner as prayed for. This writ petition is allowed. It is needless to reiterate that the rights of the petitioner will abide by the outcome of the appeal filed against the aforesaid judgment and decree. No costs."



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7.The learned Additional Advocate General appearing on behalf of the appellant submitted that the land in dispute was donated by Soosai Manikam Pillai, vide a registered gift dated 30.12.1953. The donation of the said land for Bhoodan Board was notified and published in the District Gazette in the month of March 1962. After calling for objections from the interested parties and being satisfied that there is no objection from any of the parties interested in the Property was vested to the Board and the revenue records reflects the same. The proceeding of Collector dated 19.06.1962 declared the above said land as land of Bhoomidhana board property. While so, the writ petition filed after 43 years claiming interest over the property on the basis of civil Court decree, which is subject matter of the appeal filed by the Bhoodthan Board is not maintainable. When there is a dispute regarding the identification of the property, the learned Single Judge erred in not considering the said dispute and without appreciating the documents had arrived at a conclusion that the land gifted by Soosai Manikam Pillai is only in respect of the property situated in Iyurulithatchan Kanmoi village and not the property situated in Paruthikanmoi Village. in fact, area under S.Nos.1 to 135, S.No.137 to 206 come under Iyurulithachan Kanmoi hamlet. S.Nos.136, 207 and S.No.252-288 are situated in Paruthikanmai hamlet. S.Nos.208 to 251 fall under Sitharthoor hamlet. The land in dispute, admittedly fall under S.No.54/1, which is in under Iyurulithatchan Kanmoi hamlet. The title suit between one



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Annamalai, who sold the Bhoodhan land to Santhakumar illegally through a sale deed, dated 17.04.2014 was declared to be invalid by the District Court, vide judgement dated 06.03.2016 in O.S.No.34 of 2013 on the behest of Tmt.Jayalaklashmi, who is the sister of Annamalai. The suit was filed in the year 2007, after 45 years from the date of declaring the property as Bhoodhan property after following the due process of law. While so, the Bhoodhan Board, is entitle to hold the property. The dispute regarding the identification of the property, without the help of the revenue authorities, cannot be decided and the Board cannot be deprived of its property by virtue of the order passed by the learned singl Judge in a writ petition giving positive direction to issue patta pending appeal.

8.The learned Additional Advocate General further submitted that under section 23 of the Bhoodhan Yagna Act, 1958, any person interested or affected as a result of the donation of any land for the purpose of Bhoodhana, whether before or after the commencement of the Act, ought to have registered objection before the Enquiry Officer within three months from the date of the order or should have instituted a suit to set aside the order of the Enquiry Officer as per section 17 (4). In this case, the Enquiry Officer conducted the enquiry and passed an order on 19.06.1962. Whereas the suit was instituted, only in the year 2007 and taken on file as O.S.No.174 of 2007, which hopelessly barred by limitation not



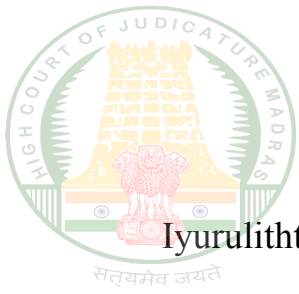
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maintainable under law.

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9.Per contra, the Learned Counsel appearing for the respondent/the writ petitioner, who succeeded before the single Judge, submitted that there is no dispute regarding the identification of the property. In fact, the predecessor in title Mr.Angamuthu @ Karuppaiah was granted Patta in respect of Survey No.54/1 along with others. The kist were paid regularly and adangal issued to show it was under cultivation of the writ petitioner and his ascendants. These documents were marked as exhibits in O.S.No.174 of 2007. Only based on those documents, decree declaring title was passed. Also, the contention of the Bhoodhan Board that the property was with the Board does not carry any merit for consideration in the light of the exhibits and the civil Court decree.

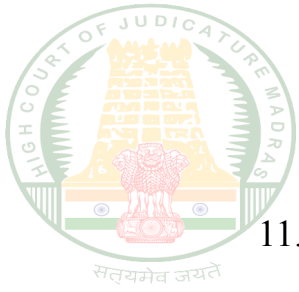
10.On consideration of the rival submissions and perusal of the records, we find that, Soosai Manikam Pillai had donated large piece of land in Iyurulithatchan Kanmai Village of Sivagangai, through a gift deed, dated 30.12.1953. The said land been vest with the Bhoodan Yagan Board after due notification in the District Gazette. Admittedly, the suit for declaration came to be filed only in the year 2007. From the Field Map, Sketch and the Revenue Records, the S.No.54/1 does not fall within Paruthikanmai village. It falls within the



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Iyuruliththachan Kanmai hamlet. In this aspect, the contention of the respondent is that, all the four hamlets commonly identified as Paruthikanmai Village.

However this is a grossly disputed fact which requires proper enquiry by the appropriate authority. Without proper enquiry regarding the identity of the land vest with Bhoodan Board, the Court cannot order grant of patta subject to the outcome of the civil dispute pending. Divesting the patta granted to the Board without ascertaining that the land for which the respondent claims patta is not legally sustainable. S.No.54/1, the land in Iyurulithatchan Kanmoi is donated to Bhoodan Board by Soosai Manickam Pillai. If, the field inspection with records indicates that the land which the writ petitioner claim patta already vested to Board, same cannot be nullified by subsequent litigations initiated beyond the limitation prescribed under the law. Hence, this Court holds that the order of the learned single Judge in W.P(MD)No.11003 of 2022 is liable to be dismissed and accordingly dismissed. However the dismissal of the Writ petition will not be a bar for the writ petitioner to make fresh representation for grant of patta based on the outcome of the pending Appeal Suit or if any new or additional evidence available to consider the request for grant of patta.



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11.In the result, the Writ Appeal stands allowed. No order as to costs.

Consequently, connected miscellaneous petition is also closed.

[G.J., J.] & [R.P., J.]

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NCC : Yes / No

Index : Yes / No

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