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W.A.(MD)NO.1462 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.1462 of 2022 AND

C.M.P.(MD)No.11789 of 2022

1. The District Collector,
Sivagangai District, Sivagangai.
2. The Tahsildar,
Karaikudi Taluk, Karaikudi,
Sivagangai District. ... Appellants / Respondents 1 &2

Vs.

1. Visalakshi Achi
2. Valli Meyyappan
3. Meenakshi Achi @ Kumara Rani
... Respondents 1 to 3 / Writ petitioners
4. M.A.M.M.Annamalai
5. A.C.Muthaiah
6. M.A.M.R.Ayyappan ... Respondents 4 to 6 / Respondents 3 to5

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the judgment dated 25.08.2022 in W.P.(MD)No.17068 of 2016 on the file of this Court.

For Appellants : Mr.J.Ravindran,
Additional Advocate General,
assisted by,
Ms.P.S.Ahamed Yasmin Parvin,
Government Advocate.



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For R-1 to R-3 : Mr.R.Sundar Srinivasan
For R-6 : Mr.Raguvaran Gopalan
For R-5 : No appearance.

* * *

J U D G M E N T

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

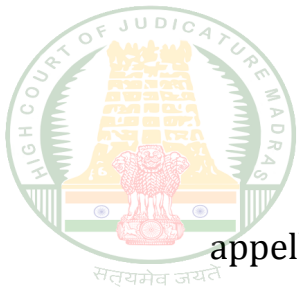
This writ appeal is directed against the order dated 25.08.2022 made in W.P.(MD)No.17068 of 2016 whereby the learned single Judge had directed the District Collector, Sivagangai District and the Tahsildar, Karaikudi Taluk to issue patta in respect of the petition-mentioned lands measuring an extent of 291.808 acres in survey No.43/7 Kothari Village, Karaikudi Taluk. The writ petition was filed by the legal heirs of one Ramanathan Chettiar and one of the legal heirs of Muthiah Chettiar. The learned single Judge took note of the fact that Ramanathan Chettiar, filed O.S.No.38 of 1983 on the file of the District Munsif, Devakottai seeking declaration and permanent injunction in respect of the suit property and the said suit was decreed as prayed for on 15.07.1986. The Government of Tamil Nadu filed A.S.No.1 of 1987 before the Sub Court, Devakottai and it was dismissed on 11.04.1988. Though no second appeal was filed challenging the said judgment and decree, patta was not issued. Hence, the legal heirs of the plaintiff and others filed W.P.(MD)



No.2671 of 2008 for issuance of patta. The writ petition was allowed on 28.11.2008. Challenging the same, the District Administration filed W.A.(MD)No.648 of 2010. The Hon'ble Division Bench declined to interfere with the said order. The Hon'ble Division Bench took note of the submission that S.A.(SR)No.24049 of 2005 was filed challenging the decision of the first appellate Court. Since it was not numbered for a very long time, the Hon'ble Division Bench held that issuance of patta would be subject to the outcome of the second appeal. The grievance of the decree holder is that even the order of the Hon'ble Division Bench was also not complied with. In these circumstances, W.P.(MD)No.17068 of 2016 came to be filed. The learned single Judge after taking note of these aspects namely, decree standing in the name of the writ petitioners and the earlier order of the Hon'ble Division Bench allowed the writ petition on the very same lines.

2. The point that calls for consideration is whether the order of the learned single Judge deserves to be interfered with.

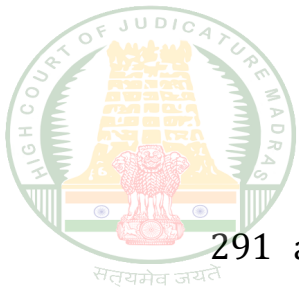
3. The learned Additional Advocate General appearing for the



appellants reiterated all the contentions set out in the memorandum of grounds of appeal and called upon this Court to set aside the order of the learned single Judge. He also pointed out that the second appeal filed against the judgment and decree dated 11.04.1988 in A.S.No.1 of 1987 had been numbered and that the orders have been reserved in the petition for condonation of delay. He submitted that the earlier second appeal papers could not be traced and hence, a fresh second appeal was filed. Since there was delay, C.M.P.(MD)No.1391 of 2023 in SA.(MD)SR.No.72232 of 2022 was filed and order has been reserved in the said petition.

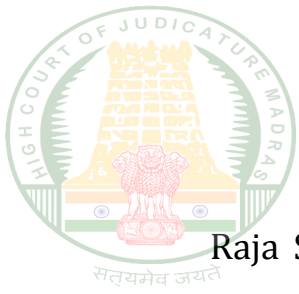
4. Per contra, the learned counsel for the writ petitioners submitted that the present appeal is not maintainable. The learned single Judge had merely reiterated the direction given by the Hon'ble Division Bench in W.A.(MD)No.648 of 2010. When the said order dated 09.08.2011 in W.A.(MD)No.648 of 2010 has attained finality. The learned single Judge has merely reiterated the earlier direction and there is no justification in mounting the present challenge.

5. Before we consider the rival contentions, it is necessary to briefly address the antecedent facts. The property measuring over



291 acres was comprised in survey No.43/7 in Kothari Village, Karaikudi Taluk. It was a part of a larger extent measuring about 640 acres. Late Raja Sir Annamalai Chettiar had purchased the said extent of land with Melwaram interest under sale deed dated 21.04.1929. Raja Sir Annamalai Chettiar had three sons namely, Ramanathan Chettiar, Raja Sir Muthaiah Chettiar and M.A.Chidambaram Chettiar.

6. Following the implementation of the Inam Abolition Laws, Raja Sir Muthaiah Chettiar filed an application under Section 15 of the Tamil Nadu Act 26 of 1948. The said application was subsequently withdrawn. Later, he filed another petition under Section 18 of the Act and obtained patta for 179 acres of land. Thereafter, he filed a fresh petition under Section 19 of the Act seeking Ryotwari patta for the remaining extent of 291 acres in survey Nos.43/7. The assistant settlement officer originally negated the request. But the settlement officer allowed the revision. Thereafter, the Tahsildar, Karaikudi Taluk filed revision before the Board of Revenue. The Board of Revenue vide order dated 14.05.1975 set aside the order of the settlement officer and restored the decision of the assistant settlement officer. Challenging the same,



Raja Sir Muthaiah Chettiar filed W.P.(MD)No.338 of 1976. The writ petition was dismissed on 11.08.1978. Thereafter, Raja Sir Muthiah

Chettiar filed review before the Government seeking patta outside the scope of the Act. Vide G.O.Ms.No.389 Commercial Taxes and Religious Endowments Department dated 16.04.1981, the request was rejected. Raja Sir Muthiah Chettiar did not challenge these orders. Instead Ramanathan Chettiar filed O.S.No.38 of 1983 on the file of the District Munsif, Devakottai seeking the relief of declaration and permanent injunction. Raja Sir Muthiah Chettiar was shown as the second defendant and the other brother M.A.Chidambaram Chettiar was shown as the third defendant. Ramanathan Chettiar argued that even though he had been given in adoption, a Will was executed by Raja Sir Annamalai Chettiar. The Will was executed by Raja Sir Annamalai Chettiar giving 1/3 full share in favour of Ramanathan Chettiar along with his siblings, namely, Raja Sir Muthaiah Chettiar and M.A.Chidambaram Chettiar. As already mentioned, the civil Court granted decree and the first appellate Court dismissed the appeal filed by the Government. The learned Additional Advocate General would strongly contend that when the request of M.A.Chidambaram Chettiar for Ryotwari patta was denied



by the Board of Revenue and the same was also confirmed by this Court in the writ proceedings, Ramanathan Chettiar who was never an applicant for Ryotwari patta could not have filed a suit and the decree granted in the said suit should be ignored as contrary to the findings given by this Court in the writ proceedings.

7. The learned counsel for the writ petitioners would state that this point was taken note of by the learned single Judge in paragraph No.6 of the impugned order.

8. Let us examine the proceedings dated 14.05.1975 issued by the Board of Revenue which order was confirmed by the writ Court in W.P.No.338 of 1976. Paragraph No.5 of the order of the Board of Revenue reads that one of the directions given by the Department earlier on 25.06.1971 was that the claim of the applicant under Section 19 should be decided after taking into account the ceiling limit of the area under the Land Ceiling Act and the settlement officer had failed to do so. It was on that ground, the order of the settlement officer was set aside. G.O.Ms.No.389 dated 16.04.1981 issued by the Government of Tamil Nadu also reads that the claim of the applicant



is likely to attract the Land Ceiling Act 58 of 1961. It further reads that the grant of patta either under G.O.Ms.No.2502, Revenue dated 08.07.1958 or under G.O.Ms.No.1300, Revenue dated 30.04.1971 is subject to the condition that the claim is not attracted by the Land Ceiling Act and therefore, it was held that the applicant was not entitled to patta.

9. We had a look at the schedule appended to the decree. It reads as follows:-

“D.M.Ramanathapuram District – Karaikudi
Taluk – Kothadi Village at Kothary S.O.43/7 extent
291-80 Acres. It is classified as uncultivated
Punchai, Annual kist Rs.163.41.”

10. The land ceiling laws came into force in April 1960. It is not as if the applicant / decree holder had only the suit schedule lands alone.

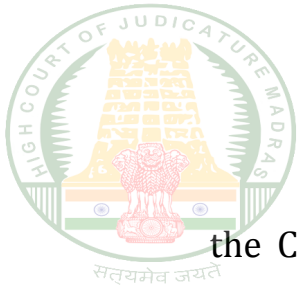
11. It is well settled that the writ Court cannot issue a writ of mandamus contrary to law. Of course, the learned counsel for the writ petitioners would strongly contend that the question of



referring or relying on the land ceiling laws may not arise at this point of time. Only if the authorised officer finds that the writ petitioners are having any excess land then and then alone, such laws can be invoked.

12. He also strongly added that this was not the case projected by the department before the writ Court or in the memorandum of grounds of appeal or in the written statement filed in the suit.

13. This contention is undoubtedly right and justified. But we cannot shut our eyes to certain obvious facts. It is for the writ petitioners to satisfy the authorities that even if patta is granted, there will not be any breach of the Land Ceiling laws. Unless such exercise is undertaken, any mandamus we issue would be contrary to law. This aspect of the matter was not projected before the learned single Judge or in the earlier writ proceedings. But the materials on record in more than one place touched upon the aspect of Land Ceiling Laws. Since we are seized of the matter, we have to take cognizance of the same. We set aside the order of the learned single Judge. Liberty is however given to the writ petitioners to submit an appropriate application. However, considering the special facts and circumstances, we permit the writ petitioners to file a petition before



the Commissioner of Land Administration. Patta for the extent of

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land sought for by the petitioners can be granted only on being satisfied that there would not be any breach of the Land Ceiling Laws. If any such application is filed, it shall be disposed of on merits and in accordance with law subject to lands within a period of six months thereafter. Of course this direction would abide by the outcome of the second appeal that has already been filed by the Government. If the Government succeeds in the second appeal, the direction now given would not enure to the benefit of the writ petitioners. This writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)
29th April 2025

NCC : Yes / No
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