



W.A.No.1211 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MS. JUSTICE R.N. MANJULA

W.A.No.1211 of 2022

and

C.M.P.No.7726 of 2022

1.The District Collector,
Kanchipuram District,
Kanchipuram.

2.The District Revenue Officer,
Kanchipuram District,
Kanchipuram.

3.The Revenue Divisional Officer,
Chengalpattu.

4.The Tahsildar,
Chengalpattu.

... Appellants

Vs.

U.Azgar Sheriff

... Respondent



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Prayer : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 17.12.2021 in W.P.No.24781 of 2016 on the file of this Court.

For Appellants : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.A.Selvendran
Special Government Pleader

For Respondent : Mr.K.R.Tamizh Mani
Senior Counsel
for Mr.V.Srinivasa Babu

J U D G M E N T

(Order of the Court was made by **S.S. SUNDAR, J.**)

This Writ Appeal is directed against the order of the learned Single Judge dated 17.12.2021 in W.P.No.24781 of 2016, allowing the writ petition filed by the respondent for quashing the proceedings of the District Revenue Officer and consequential order passed by the Tahsildar and to direct the appellants to issue patta in favour of the respondent.

2.Brief facts that are necessary for the disposal of this Writ Appeal are as follows :



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2.1.The respondent/writ petitioner claimed title to a property which is comprised in Town Survey No.47, corresponding to Old Survey No.26/B, measuring an extent of 71 cents in Chengalpet Village. Though the writ petitioner claimed that the land was originally an Inam granted in favour of his predecessors-in-title, in an earlier suit filed by one R.S.Subbarayan in O.S.No.245 of 1971 on the file of the District Munsif Court, Chengalpet, against the predecessors-in-title of the writ petitioner for declaration of title, the writ petitioner's grandfather had admitted that the suit property was registered as Government Poramboke. However, the said suit was dismissed by judgment and decree dated 20.11.1972.

2.2.It was thereafter, the writ petitioner's father filed a suit in O.S.No.293 of 1981 before the District Munsif Court, Chengalpet, and the said suit was for declaration of title and consequential injunction against the appellants, namely, the State represented by District Collector and other Revenue officials including the Assistant Collector (Sub-Collector) and the Tahsildar in respect of the same property that is measuring an extent of 71



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Cents in Old Survey No.26/B corresponding to Town Survey No.47. In the said suit, it is to be seen that the 1st appellant, the State, and the Municipality filed a written statement specifically admitting that the property subdivided as S.No.26/1B2 is correlated to Town Survey No.47 and that the extent is 71 Cents. However, the appellants contended in the Civil Suit that the property is a Government Poramboke and that the writ petitioner's father was a trespasser. The trial Court framed a specific issue, whether the plaintiff is estopped from denying the character of property as Poramboke, since an issue was raised by appellants pointing out an admission made by father of plaintiff in the first suit filed by a stranger against him in O.S.No.245 of 1971. The trial Court also framed an issue whether the plaintiff has title to the suit property. After a full fledged trial, the trial Court, by judgment and decree dated 11.09.1996, decreed the suit in favour of the writ petitioner's father holding that the plaintiff, who is the predecessors-in-title of the writ petitioner, had proved his absolute title. The trial Court also granted consequential decree for permanent injunction as prayed for. It is pertinent to mention that the trial Court, after considering the entire evidence, held that the plaintiff in the suit had obtained the land by way of personal grant.



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The contention of the appellants that the land belongs to Government, as it is classified as Government Poramboke, was specifically rejected while granting decree in favour of the plaintiff. The trial Court also answered the issue whether the plaintiff is estopped from disputing the character of property as against the appellants. The Court rendered a specific finding that the plaintiff is not estopped from denying or disputing the character of the property as per Revenue records, relying upon a precedent wherein it is held that entry in Revenue records showing the property as Government Poramboke will not establish the title of Government.

2.3.The decree dated 11.09.1996 in O.S.No.298 of 1981 was challenged by the appellants by way of appeal in A.S.No.40 of 1997 before the Additional Sub-Court, Chengalpattu. The lower Appellate Court also confirmed the findings of the trial Court and dismissed the appeal by judgment and decree dated 28.02.2003.

2.4.The appellants, thereafter, filed a Second Appeal in S.A.No.2135 of 2004 before this Court and this Court dismissed the Second Appeal by



judgment dated 27.11.2008, answering all the three substantial questions of law as against the appellants. The substantial questions of law that were answered by this Court as against the appellants in the Second Appeal are as follows :

- i. Whether the Courts below had not erred in not appreciating the fact that the nature of the land has also been classified as Government poramboke in O.S.No.245 of 1971 and hence the present suit is barred by the principle of res judicata ?*
- ii. Whether the Courts below had not erred in not appreciating the applicability of the provisions of Inam Abolition Act, 1963, whereby all the inams stand vested with the Government absolutely ?*
- iii. Whether the Courts below had not erred in not appreciating the fact that the plaintiff having failed to question the classification of the as Government Poramboke under the Inam Abolition Act, 1963, is estopped from raising a plea for issuance of ryotwari patta at this length of time ?*

2.5.Despite the Civil Court's decree and finality reached in Second Appeal on 27.11.2008, the writ petitioner's father was not granted patta. The writ petitioner filed a writ petition in W.P.No.22950 of 2009 before this



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Court for directing the Tahsildar to grant patta. However, the writ petition was disposed of by directing the Tahsildar to consider the petitioner's representation. Thereafter, the Tahsildar passed an order refusing to grant patta on the ground that portion of S.No.26B is Government Poramboke and that patta had been given in favour of others for remaining portion. This order was challenged by petitioner before Revenue Divisional Officer. The Revenue Divisional Officer set aside the order of Tahsildar holding that the order rejecting the application is contrary to the Civil Court's decree. Thereafter, the writ petitioner was driven pillar to post.

2.6.Despite the findings on the exclusive title of the writ petitioner's predecessors-in-title, it is seen that the Revenue officials have not granted patta in favour of the writ petitioner raising an issue on identity of property. Despite the Civil Court had declared the title of writ petitioner's father and the judgment has been confirmed by this Court in Second Appeal, the District Revenue Officer, by his proceedings dated 09.06.2016, based on the Revenue records, for the first time, would venture to observe that the property in Town Survey No.47 is not corresponding to Old Survey No.26/B,



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even though the Revenue Divisional Officer had earlier considered the eligibility of writ petitioner for grant of patta. It is relevant to extract the operative portion of the order of the District Revenue Officer dated 09.06.2016 as under :

“முன்றாவதாக பார்வை 1-ல் காணும் வட்டாட்சியர் ஆணைக்கு எதிராக செங்கல்பட்டரு வருவாய் கோட்ட அலுவலரிடம் தாக்கல் செய்யப்பட்ட மேல்முறையீட்டு மனுவில் பிறப்பிக்கப்பட்ட பார்வை 2-ல் காணும் ஆணையில் வருவாய் கோட்ட அலுவலர் வட்டாட்சியர் வருவாய் நிலை எண்.31(4)ன் கீழ் மனுதாரரின் கோரிக்கை மீது நடவடிக்கை எடுக்க வேண்டும் என தெரிவித்துள்ளார். வருவாய் நிலை ஆணை எண்.31 என்பது ஏற்கனவே பட்டாவில் பதிவாகியுள்ள நபர்களிடமிருந்து பதிவு மாற்றம் செய்வதற்கான வழிமுறைகளை தெரிவிப்பதாகும். அதில் பிரிவு 31(4) என்பது ஏற்கனவே பட்டா பதிவு செய்யப்பட்டுள்ள நபர்களுக்கிடையில் ஏற்பட்ட வழக்குகளிலோ அல்லது நீதிமன்ற ஏலத்திற்கு கொண்டு வரப்பட்ட பட்டா நிலங்களில் பிறப்பிக்கப்பட்ட நீதிமன்ற ஆணைகளை செயல்படுத்துவதற்காக மேற்கொள்ளப்பட வேண்டிய வழிமுறைகள் குறித்து விளக்குவதாகும். இந்நேர்வில், வார்டு 1, பிளாக் 4-ல் உள்ள T.S.No.47 என்பது அரசு புறம்போக்கு என வகைப்படுத்தப்பட்டு எவருடைய பெயரிலும் பட்டா பதிவாகாமல் உள்ள நிலமாகும். அதில் வருவாய் நிலை ஆணை எண்.31(4)ன் கீழ் பட்டா மாற்றம் செய்ய இயலாது. மேலும், மேல்முறையீட்டு மனுவில் விசாரணை



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மேற்கொண்ட வருவாய் கோட்ட அலுவலர், வட்டாட்சியரின் உத்தரவில் தெரிவிக்கப்பட்டுள்ள புல எண்கள் ஒப்புமை (Correlation) குறித்து ஆய்வு செய்யாமல் நீதிமன்ற ஆணையை செயல்படுத்துவது குறித்து உத்தரவு பிறப்பிக்க வட்டாட்சியருக்கு உத்தரவிட்டுள்ளார்.

எனவே மேற்கூறப்பட்ட சூழ்நிலையில் மனுதாரருக்கு சாதகமாக வழங்கப்பட்டுள்ள நீதிமன்ற ஆணைகளில் வழக்கிடை புலமாக குறிப்பிடப்பட்டுள்ள T.D.எண்.992-ற்கான பழைய புல எண்.26/B மற்றும் 26/C மனுதாரர் பட்டா கோரும் செங்கல்பட்டு நகரம், வார்டு 1, பிளாக் 4, T.S.No.47ற்கு பொருந்தாததாகையாலும், நீதிமன்ற ஆணைகளில் வழக்கிடை புலத்திற்கான நான்கெல்லைகள் தெரிவிக்கப்படாததாலும் மனுதாரரின் கோரிக்கை ஏற்க இயலாததென மனுதாரருக்கு தெரிவித்து உத்தரவிட செங்கல்பட்டு வட்டாட்சியருக்கு தெரிவிக்கப்படுகிறது.”

2.7.It is pertinent to note the conduct of the District Revenue Officer.

In utter disregard to the Civil Court's decree and the candid admission of the Revenue officials before the Civil Court, he has informed the Tahsildar that patta cannot be issued to the writ petitioner as the property in Old Survey No.26/B and 26/C cannot be correlated to Town Survey No.47.



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2.8. From the order of the District Revenue Officer, it is seen that, pursuant to the Civil Court decree, there were internal communications among the Revenue officials and the Revenue Divisional Officer had directed the Tahsildar to issue patta in tune with the Civil Court decree. However, the District Revenue Officer, on receipt of the files, has made specific observations regarding correlation quite contrary to the stand taken by the appellants in the written statement as well the documents produced before the trial Court in the first suit filed by the stranger against the predecessors-in-title of the writ petitioner as well in the second suit filed by the writ petitioner's father. It is pursuant to the direction of the District Revenue Officer, probably, the application of the writ petitioner for grant of patta was considered by the Tahsildar. Reiterating the stand taken by the District Revenue Officer, the Tahsildar, who is the authority to decide on mutation of Revenue records based on Civil Court decree, has surrendered his discretion and passed the order impugned dated 02.07.2016 in the following lines :



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“முன்றாவதாக பார்வை 1-ல் காணும் வட்டாட்சியரின் ஆணைக்கு எதிராக செங்கல்பட்டரு வருவாய் கோட்ட அலுவலரிடம் தாக்கல் செய்யப்பட்ட மேல்முறையீட்டு மனுவில் பிறப்பிக்கப்பட்ட பார்வை 2-ல் காணும் ஆணையில் வருவாய் கோட்ட அலுவலர் வட்டாட்சியர் வருவாய் நிலை எண்.31(4)ன் கீழ் மனுதாரரின் கோரிக்கை மீது நடவடிக்கை எடுக்க வேண்டும் என தெரிவித்துள்ளார். வருவாய் நிலை ஆணை எண்.31 என்பது ஏற்கனவே பட்டாவில் பதிவாகியுள்ள நபர்களிடமிருந்து பதிவு மாற்றம் செய்வதற்கான வழிமுறைகளை தெரிவிப்பதாகும். அதில் பிரிவு 31(4) என்பது ஏற்கனவே பட்டா பதிவு செய்யப்பட்டுள்ள நபர்களுக்கிடையில் ஏற்பட்ட வழக்குகளிலோ அல்லது நீதிமன்ற ஏலத்திற்கு கொண்டு வரப்பட்ட பட்டா நிலங்களில் பிறப்பிக்கப்பட்ட நீதிமன்ற ஆணைகளை செயல்படுத்துவதற்காக மேற்கொள்ளப்பட வேண்டிய வழிமுறைகள் குறித்து விளக்குவதாகும். இந்நேர்வில், வார்டு 1, பிளாக் 4-ல் உள்ள T.S.No.47 என்பது அரசு புறம்போக்கு என வகைப்படுத்தப்பட்டு எவருடைய பெயரிலும் பட்டா பதிவாகாமல் உள்ள நிலமாகும். அதில் வருவாய் நிலை ஆணை எண்.31(4)ன் கீழ் பட்டா மாற்றம் செய்ய இயலாது. மேலும், மேல்முறையீட்டு மனுவில் விசாரணை மேற்கொண்ட வருவாய் கோட்ட அலுவலர், வட்டாட்சியரின் உத்தரவில் தெரிவிக்கப்பட்டுள்ள புல எண்கள் ஒப்புமை (Correlation) குறித்து ஆய்வு செய்யாமல் நீதிமன்ற ஆணையை செயல்படுத்துவது குறித்து உத்தரவு பிறப்பிக்க வட்டாட்சியருக்கு உத்தரவிட்டுள்ளார்.



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எனவே மேற்கூறப்பட்ட சூழ்நிலையில் மனுதாரருக்கு சாதகமாக வழங்கப்பட்டுள்ள நீதிமன்ற ஆணைகளில் வழக்கிடை புலமாக குறிப்பிடப்பட்டுள்ள T.D.எண்.992-ற்கான பழைய புல எண்.26/B மற்றும் 26/C மனுதாரர் பட்டா கோரும் செங்கல்பட்டு நகரம், வார்டு 1, பிளாக் 4, T.S.No.47ற்கு பொருந்தாததாகையாலும், நீதிமன்ற ஆணைகளில் வழக்கிடை புலத்திற்கான நான்கெல்லைகள் தெரிவிக்கப்படாததாலும் மனுதாரரின் கோரிக்கை நிராகரித்து உத்திரவிடப்படுகிறது.”

2.9.Challenging the orders of the District Revenue Officer and the consequential order of the Tahsildar, the writ petition in W.P.No.24781 of 2016 was filed by the respondent.

3.The learned Single Judge allowed the writ petition mainly on the ground that the Civil Court has declared the title of the writ petitioner's father in unequivocal terms rejecting all the contentions of the appellants. Since identity of the property was never an issue raised before the Civil Court, the learned Judge also considered the issue raised by the Revenue regarding identity and held that the writ petitioner has proved the identity of the property in the Execution Application in E.A.Nos.51 & 52 of 2015 in



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E.P.No.41 of 2013 in O.S.No.293 of 1981 relying upon the Advocate

Commissioner's report.

4.Challenging the order of the learned Single Judge allowing the writ petition, the above Writ Appeal is filed by the Revenue officials who are respondents in the writ petition.

5.Learned Additional Advocate General appearing for the appellants submitted that the Civil Court decree is only in respect of some other property and not the property for which the writ petitioner claims patta. The learned Additional Advocate General submitted that Town Survey No.47 cannot be correlated to Old Survey No.26/B. Sum and substance, the submission of the learned Additional Advocate General is in tune with the findings of the District Revenue Officer which is impugned in the writ petition. The learned Additional Advocate General reiterated his submission that the property in Town Survey No.47 is a Government Poramboke land and that the same cannot be correlated to Old Survey No.26/B. Stating that the Civil Court has never framed an issue regarding the identity of the



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property, the learned Additional Advocate General submitted that his submissions on correlation should be considered with reference to several documents which the appellants have filed before this Court.

6. Surprisingly, this Court is disappointed by the documents which are relied upon by the learned Additional Advocate General before this Court. While submitting that the suit property is not the property which can be correlated to Town Survey No.47, the first document relied upon by the learned Additional Advocate General is an Extract of Resettlement Register pertaining to S.No.26/B. This document is prior to Town Survey and therefore, it is not helpful to speak about correlation. However, this document only shows that Survey No.26/B is recognized as “Inam”. The second document is again an Extract of Town Survey which was obtained in 2011. In the Extract of Town Survey, the property in T.S.No.47 is shown as “Bus Stand”. This document does not speak about correlation. The third document appears to be the document filed as Ex.A3 through the plaintiff in the suit in O.S.No.245 of 1971 marked on 25.10.1972. It is relevant to point out that this document clearly spells out that T.S.No.47 is correlated to



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Old Survey No.26/B. However, this document shows that the property is registered as “Government Poramboke”. Even though a set of Adangal Extracts and Town Settlement Extracts are produced, none of the documents refer to the correlation and therefore, the mission of the learned Additional Advocate General by relying upon the the documents to show that there is a mistake in identity or correlation, has failed.

7.This Court is really surprised to note that the learned Additional Advocate General has made his submissions without even looking into the written statement filed by the appellants in the suit in O.S.No.293 of 1981. It is seen that, in the written statement filed by the State and others in the suit, the specific stand taken by the appellants is that the property in S.No.26/1B2 is correlated to T.S.No.47 with a total extent of 71 Cents. Therefore, it is a candid admission before the Civil Court. Therefore, when there is no necessity for the Civil Court to frame an issue as to identity or about correlation, the contention of the learned Additional Advocate General that the Civil Court has not gone into the identity issue or correlation issue, is unsustainable. It is not in dispute that the plaintiff in the suit is found to



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be in possession of property in T.S.No.47.

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8. Apart from the candid admission in the written statement, when D.W.1 was examined as witness, he has also admitted that Town Survey No.47 is correlated to Old Survey No.26/B. Beyond that, there is also a report available during the time when the issue was raised immediately after the suit. In the Execution Application, an Advocate Commissioner was appointed to identify the property. Though a stand was taken before the trial Court quite contrary to the stand taken in the written statement, the same was also clarified by the Advocate Commissioner on field inspection. Even though we are unable to accept that the decree holder in the suit can file an Execution Petition under Order XXI Rule 11 of Code of Civil Procedure, the records that were produced in the Execution Petition would amply falsify the entire case of Revenue/appellants justifying their stand now before this Court disputing the identity of the property.



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9.All along, before the Civil Court, the appellants made everyone to believe that there is no issue regarding correlation and that the property in T.S.No.47 measuring an extent of 71 Cents is corresponding to Old Survey No.26/B. After taking a specific stand in the written statement about the correlation in a Civil Suit where father of the writ petitioner established his title and obtained a decree declaring his title to the property in T.S.No.47, the District Revenue Officer has now made an attempt with his subordinates to set at naught the binding judgment of Civil Court by dubious method. This practice which is now prevailing in the Revenue Department is deprecated. It lowers the authority of Court and we record that any such practice in future by the Revenue officials will be taken serious note of and in all such cases, this Court will take it as an act of interfering with administration of justice or lowering the authority of Court and this Court can also initiate criminal contempt. No doubt, in some cases, people may file suit against the Government or instrumentalities of Government with fabricated records. In those cases, fraud can be alleged to nullify the decree even in collateral proceedings. When Revenue officials honestly fight for a right cause to protect the property of Government, we will not certainly find



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fault with the officials. However, when a conscious attempt is made to circumvent the Civil Court decree by dubious methods or delaying tactics by referring to self serving documents, the Court cannot be a mute spectator. This conscious attempt of the Revenue officials, particularly the District Revenue Officer, prompts us to dismiss this Appeal with cost, particularly in public interest, so that recurrence of such incidents can be avoided in future.

10. Accordingly, this Writ Appeal is dismissed with a cost of Rs.25,000/- (Rupees Twenty Five Thousand only) payable by State to the Tamil Nadu Legal Services Authority, Madras High Court Campus, Chennai – 600 104. The Government may recover the said amount from the District Revenue Officer who passed the order dated 09.06.2016 or the subordinate who misled him to pass the order which is impugned in the writ petition. Consequently, connected miscellaneous petition is closed. The appellants are directed to grant patta to the writ petitioner forthwith and any delay will be viewed seriously.

mkn

(S.S.S.R., J.) (R.N.M., J.)
07.11.2024

Note to Registry :



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Issue order copy on or before 14.11.2024.

WEB COPY

Internet : Yes

Index : Yes

Neutral citation : Yes

To

- 1.The District Collector,
Kanchipuram District,
Kanchipuram.
- 2.The District Revenue Officer,
Kanchipuram District,
Kanchipuram.
- 3.The Revenue Divisional Officer,
Chengalpattu.
- 4.The Tahsildar,
Chengalpattu.

S.S. SUNDAR, J.



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W.A.No.1211 of 2022

and
R.N. MANJULA, J.

mkn

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07.11.2024