

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.22092 of 2006

1.R.Kanagarajan
2.D.Chandrasekaran
3.M.Arumugam

... Petitioners

vs.

The Special Commissioner and Director
Survey and Settlement
Chepauk, Chennai-600 005

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorari, calling for the records relating to the respondent's proceedings in Ne.U.A.6073/2005, dated 23.09.2005, with respect to petitioners land comprised in S.No.798 of Tirumullaivoil Village, Ambattur Taluk, Tiruvallur District, over an extent of 0.53 Acres and quash the same.

For Petitioners : Mr.M.Muthappan

For Respondent : Mr.M.S.Ramesh, A.G.P.

O R D E R

Reserved on : 11.09.2014
Pronounced on : 27.11.2015

The short facts of the case are as follows:

The third petitioner has stated that the first petitioner's father, who died subsequently, and other two petitioners, jointly acquired the land in S.No.798 of Thirumullaivoil Village, Ambattur Taluk, over an extent of 0.53 Acres from Balakrishnan and others, who were all in possession and enjoyment of the land for several decades. Thereafter, the petitioners approached the Assistant Settlement Officer, Thiruvannamalai, for grant of Ryotwari Patta. The Assistant Settlement Officer, Thiruvannamalai, after due enquiry, had granted a Ryotwari Patta. The Assistant Settlement Officer, Thiruvannamalai, after due enquiry, had granted a Ryotwari Patta in favour of the first

petitioner's father and other two petitioners jointly in his proceedings Mu.Mu.(B2) 837/2000, dated 27.07.2000, over an extent of 0.53 Acres consisted in S.No.798 in Tirumullaivoil Village. Pursuant to the order of Assistant Settlement Officer, the Tahsildar, Ambattur, had also granted the regular Patta by changing all the revenue accounts in favour of the petitioners.

2. While so after the period of six years, the respondent, who does not have suo-moto power, has issued notice, under Section 5(2) of Tamilnadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 in his proceedings Ne.U.A.6073/2005, dated 23.09.2005, which was served on the petitioners on 21.06.2006, to cancel the patta granted by the Assistant Settlement Officer, Tiruvannamalai. Aggrieved by the same, the petitioners have filed this writ petition.

3. The learned counsel appearing for the petitioners has submitted that the first petitioner's father and petitioners 2 and 3 had jointly purchased the land, in Survey No.798 of Tirumullaivoil Village, measuring about 0.53 Acres, from Balakrishnan and others, who were all in possession and enjoyment of the same for several decades. Subsequently, they had obtained Patta from the Assistant Settlement Officer, Tiruvannamalai, in their name, during 2000. Thereafter, the Tahsildar, Ambattur, had granted a regular Patta in the petitioners' name. The other relevant records have also been mutated in their name. In such circumstances, the respondent has issued the proceedings suo motu for cancelling the Patta proceedings granted in the petitioners' name. Hence, the learned counsel has prayed this Court to set aside the same.

4. The learned Additional Government Pleader appearing for the respondent has submitted that the subject land has been classified as a Government Poramboke land and the same was not considered by the Assistant Settlement Officer, while granting Ryotwari Patta and pursuant to that the Tahsildar had also issued a regular Patta in the name of the petitioners. Hence, both the Officers have committed an irregularity in granting Patta. The respondent, being a competent authority, had issued a show-cause notice to the petitioners and called for explanation. The impugned proceedings are not a final order and hence the learned Additional Government Pleader has prayed this Court to dismiss the writ petition.

5. Considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the subject land comes under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. The respondent has mentioned in the impugned proceedings that the subject land is classified as a Government Poramboke land.

Therefore, a crystal clear clarification is required on this issue. Hence, the respondent being the competent authority has issued the impugned proceedings for enquiry, which is sustainable under law. In such circumstances, the writ petition does not possess any force to allow it and the same is liable to be dismissed.

6.In the result, the writ petition fails and it is dismissed. No costs.

Sd/
ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

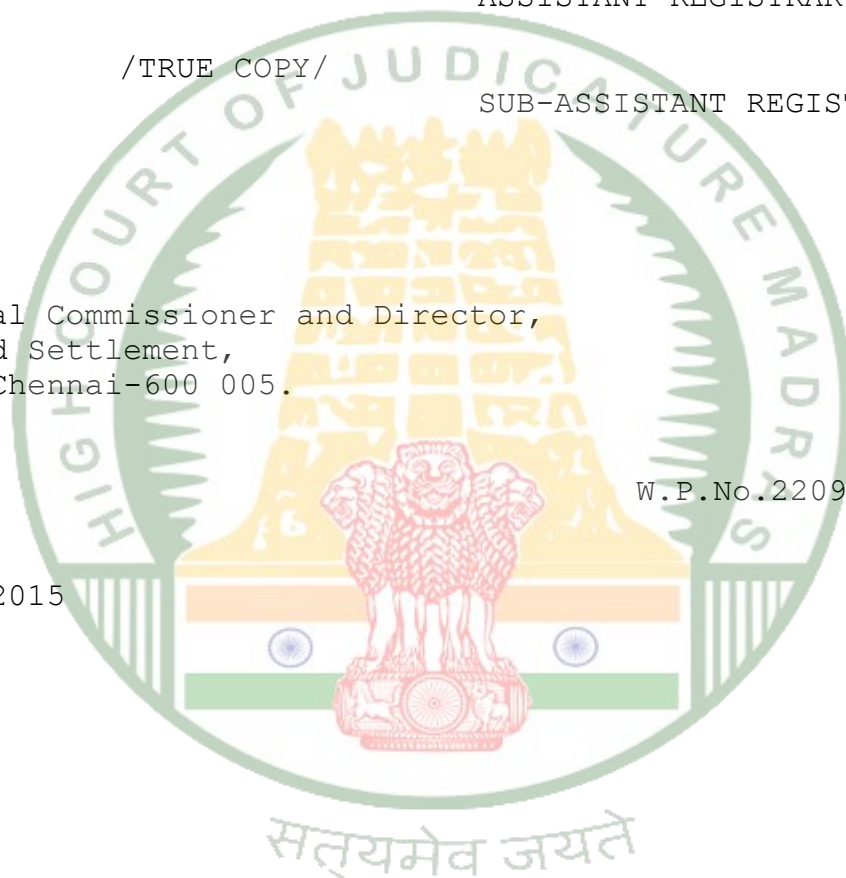
vs / krk

To:

The Special Commissioner and Director,
Survey and Settlement,
Chepauk, Chennai-600 005.

W.P.No.22092 of 2006

CO-AK
JD 17/12/2015



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