



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.08.2016  
Delivered on : 02.09.2016

CORAM :

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**THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO**  
**and**  
**THE HONOURABLE MR.JUSTICE S.S.SUNDAR**

Writ Appeal (MD) No.1223 of 2016  
& C.M.P(MD)No.8126 of 2016

S.Kumarappan

... appellants/2<sup>nd</sup> Petitioner

**-Vs-**

1. The Tahsildar,  
Taluk Office,  
Thirumayam Taluk,  
Pudhukottai District.

2. The District Revenue Officer,  
O/o. District Collector,  
Pudhukottai District,  
Pudhukottai.

3. Albert J.S. Doss, (Died)

4. C.Ariyal

5. Astin I.J. Christober

6. Albert Astin

7. Astin I.J. Viniber

... Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent praying to set aside the order passed in W.P.(MD)No.5156 of 2008, dated 07.06.2016.

Prayer in WP(MD). 5156/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to proceedigns made in Na.Ka.T.3/58864/06 dated /12/2007 patta issued in favour of the 3rd resppondent on the file of the 2nd resppndent quash the same and direct the 1st respondent to issue patta in favour of the petitioners in respect of S.No. 319 and 320/2 to the extent of 2.85.5 and 0.76.0 Hectors respectively valaramanickam village, Thriumaiyam taluk, Pudhukottai district.

For appellants : Mr.S.Doraisamy

For Respondents : Mr.S.Kumar

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1 and 2

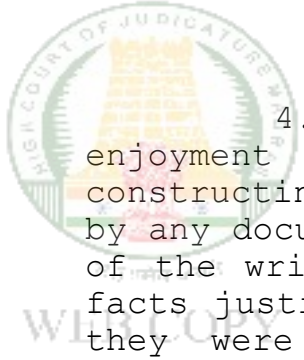
Additional Government Pleader.

JUDGMENT**S. S. SUNDAR, J.**

This Writ Appeal has been filed against the order in W.P. (MD) No.5156 of 2008 dated 07.06.2016, dismissing the writ petition filed by the appellants herein, giving liberty to the appellants to approach the appropriate Civil Court.

2.The case of the appellants is that the lands measuring an extent of 2.85.5 hectares in Survey No.319 and an extent of 0.76.0 hectares in Survey No.320/2 in Valaramanickam Village, Thirumayam Taluk, Pudhukottai District, are Government poramboke land and that the appellants are residing in the said land (i.e. About 9 acres of land) by putting up a thatched shed. It is also the case of the appellants that the lands above mentioned are classified as "Hold Over" in the revenue records and that the appellants have preferred an application to the Tahsildar for issuance of Patta to the appellants. It is the further case of the appellants that though the first respondent Tahsildar called for an enquiry to be held on 18.12.2007, the second respondent namely the District Revenue Officer issued patta to the father of the respondents 5 to 7 herein, namely, the third respondent in the writ petition, by proceedings dated 28.12.2007. This order of second respondent is challenged in the writ petition and consequently the appellants sought for a direction to the first respondent, Tahsildar, to issue patta to them.

3.The writ petition was filed by the appellants mainly on the ground that the second respondent, has no jurisdiction to pass an order for transfer of patta and hence, the order is without jurisdiction. Since the appellants are in possession of the Government poramboke lands for several years by putting up a thatched shed and entitled to patta for the land, the order passed by the second respondent granting patta to the third respondent in the writ petition, is illegal. During the pendency of the writ petition, the third respondent in the writ petition, namely, the father of the respondents 5 to 7 herein died on 04.10.2012 and the fourth respondent in the writ petition through his counsel appears to have filed a memo in Court on 04.04.2016, informing the death of the third respondent. However, the appellants have not taken any steps to bring the legal representatives of the deceased third respondent in the writ petition. The learned Single Judge, after taking note of the fact that the dispute relates to the right, title and enjoyment of the lands, and that the order of the second respondent which is in the nature of restoration of the revenue records to its original position, declined to entertain the writ petition on the ground that it would be appropriate for the writ petitioners to approach the Civil Court with an observation that the petitioners are entitled to deduct the time spent by them for prosecuting the writ petition.



4. The contention of the appellants that they are in enjoyment of about nine acres of Government poramboke lands by constructing a small thatched shed is unbelievable and not supported by any document or material. Even in the affidavit filed in support of the writ petition, the appellants have not stated any relevant facts justifying their claim for patta. It is not their case that they were in enjoyment as per revenue records. Though the contention of the appellants is that the lands are Government poramboke lands, the facts recorded by the second respondent in the impugned order reveals the following aspects:

(a) The lands measuring to an extent of 2.85.5 hectares in Survey No.319 and an extent of 0.76.0 hectare in Survey No.320/2 in Valaramanickam Village, Thirumayam Taluk, Pudhukottai District, are classified as ryotwari lands and patta was given to the father of respondents 5 to 7 in patta No.3. In continuation thereof lands were also registered in the name of father of respondents 5 to 7 as per settlement accounts vide patta No.563.

(b) Since patta was not granted under UDR scheme, the lands were registered as "Hold Over" (withheld) after showing the father of the respondents 5 to 7 as pattadar.

(c) It is revealed from the village records that in all cases where patta was withheld during UDR scheme, patta has been subsequently directed to be issued during settlement under Inam Abolition Act.

(d) Though appellants claimed patta for their lands on the ground that they were in enjoyment and that they could not produce any documents in view of the fact their house was destroyed about 55 years back in fire, the request of appellants was turned down as not supported by any document.

(e) It is only on the specific finding that the lands were in the name of the father of the respondents 5 to 7 herein for a long time, and that the words inserted in the revenue records as "Hold Over" is not warranted, the District Revenue Officer has passed the impugned order deleting the entry "Hold Over" as against the lands in Survey No.319 and Survey No.320/2 which are shown to have been registered in the name of the father of the respondents 5 to 7 in all revenue records so as to enable him to get patta.

5. The appellants have not denied the basic facts that are recorded or stated in the impugned order of the second respondent.

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6. The learned counsel for the appellants raised the following points while arguing the appeal:



(a) The lands in dispute do not belong to father of respondents 5 to 7 and the second respondent District Revenue Officer passed an order granting patta to the father of the respondents 5 to 7 herein when the application filed by the appellants for grant of patta is pending.

(b) The Tahsildar alone is the competent person to pass an order granting patta and the District Revenue Officer, the second respondent herein has no jurisdiction to exercise the function of a Tahsildar by transferring patta.

(c) The second respondent, District Revenue Officer, did not give any opportunity to the appellants before passing the impugned order and the order of the learned Single Judge dismissing the writ petition giving liberty to approach the Civil Court is neither proper nor legal.

7. The appellants have not produced any documents or material before this Court to substantiate his claim that the disputed lands are Government poramboke lands and that they are in enjoyment of such vast extent of lands (9 acres) by putting up a small thatched shed for residence. It is to be noted that the District Revenue Officer is the competent authority to rectify any mistake or error which occurred during implementation of UDR scheme. Since, the second respondent has recorded the fact that the lands were registered in the holdings of the father of the respondents 5 to 7 (third respondent in the writ petition) long back and that the entry in respect of the lands as "Hold Over" meaning thereby the grant of patta is withheld, is a mistake, the second respondent is justified in deleting the words "Hold Over". The correction of this mistake by the second respondent is not an order either granting or refusing patta in favour of/or against any one. The appellants have come forward with a case claiming entitlement to patta without any basic record or material. Their case that the lands are poramboke lands is contrary to the impugned order passed by the District Revenue Officer recognising the right, title and interest of father of respondents 5 to 7. Interestingly, the writ petitioners / appellants herein have not whispered anything in their affidavit filed in support of the writ petition disputing or contradicting the facts narrated in the order passed by the second respondent. When the Revenue Officials have acknowledged the right and title of father of respondents 5 to 7, based on previous records, it is not open to the appellants to claim patta from Government on the ground that the lands are poramboke lands. The appellants have also failed to take steps to implead the legal representatives of the third respondent in the writ petition within a reasonable time. In such circumstances, we find no reason to interfere with the order passed by the learned Single Judge dismissing the writ petition filed by the appellants. The Writ Appeal is, therefore, dismissed. However, if the appellant approaches Civil Court for appropriate relief, the



Civil Court may dispose of the same uninfluenced by any of the findings or observations made in this order. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

**To**

1. The Tahsildar,  
Taluk Office,  
Thirumayam Taluk,  
Pudhukottai District.

2. The District Revenue Officer,  
O/o. District Collector,  
Pudhukottai District,  
Pudhukottai.

+ 1 CC TO MR.S.DORAISAMY, ADVOCATE IN SR No. 47840

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 50200

SRM

TE/PV : 15/09/2016 : 5P/5C

Judgment made in  
Writ Appeal (MD) No.1223 of 2016  
& C.M.P (MD) No.8126 of 2016  
02.09.2016