



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.07.2016

Delivered on : 13.07.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. (MD) Nos.13737 of 2013 and 18108 of 2015

and

M.P. (MD) No.1 of 2015

W.P. (MD) No.13737 of 2013:

Sri.Padmanabha Dasa Uthradom Thirunal

H.H.Marthanda Varma (deceased)

Rep. by his power holder

V.S.Venkatraman

1.Smt.Parvathi Devivarma

2.Sri Padmanabha Varma

[Petitioners substituted as per the order of this

Court dated 04.07.2016, in M.P. (MD) No.1 of 2014]

:Petitioners

Vs.

1.State of Tamil Nadu,

Rep. by its Principal Secretary of
Revenue Department, St. George Fort,
Chennai.

2.State of Kerala,

Rep. by its Principal Secretary of
Revenue Department,
Secretariat, Thiruvananthapuram.

3.The District Collector,

Tirunelveli District.

4.The District Revenue Officer,

Tirunelveli District.

5.The District Collector,

Kollam District, Kerala State.

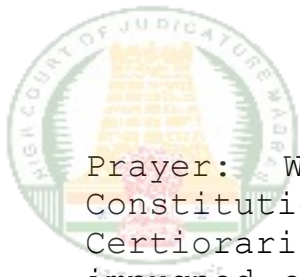
6.The Revenue Divisional Officer,

Tenkasi Division,
Tirunelveli District.

7.The Tahsildar,

Tenkasi Taluk,
Tirunelveli District.

:Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the fourth respondent, DRO, Tirunelveli, vide ROC.No.Z 2 91882/2008, dated 26.02.2010 and quash the same and consequently, direct the respondent Nos.3,6 and 7 to restore the name of Maharaja of Travancore in Sy.Nos.33/1,5,7,3,6,34/1,2,3,30/2,355/2,482/53, 190/5, 191/3, 192/2, 194/2, 196/2, 35/2, 3, 30/1A, 1B, 22/1, 2, 23/2A/1 in Courtalam Village, Senkottai Taluk, having an extent of 56.68 acres in the revenue records.

For Petitioners	: Mr.K.P.Narayanakumar
For Respondents 1,3,4,6&7	: Mr.K.Chellapandian, Additional Advocate General, Assisted by Mr.J.Gunaseelan Muthiah, Government Advocate
For Respondents 2&5	: Mr.G.R.Swaminathan

W.P.(MD)No.18108 of 2015:

Mr.Moolam Thirunal Ramavarma,
Rep. Through his power of attorney
Mr.Avittam Thirunal Adithyavarma

:Petitioner

vs.

The District Revenue Officer,
Tirunelveli District.

:Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, directing the respondent to consider the petitioner's representations dated 15.11.2014 and 17.09.2015 and further, direct him to rectify the error committed by the department in changing the name in the patta pertaining to S.Nos.33/1, 5,7,3,6,34/1, 2,3,30/2, 355/2, 482/53, 190/5, 192/2, 35/2, 30/2, 355/2, 482/53, 190/5, 192/2, 194/2, 196/2, 35/2, 3, 30/1A, 1B, 22/1, 2, 23/2A/1 in Courtallam Village, Tenkasi Taluk, having an extent of 56.68 acres.

For Petitioner	: Mr.S.Sethuraman, For Mr.V.Vinayagamoorthy
For Respondent	: Mr.K.Chellapandian, Additional Advocate General, Assisted by Mr.J.Gunaseelan Muthiah, Government Advocate

COMMON ORDER

<https://hcservices.ehcses.gov.in/hcservices/> Writ Petitions are at the instance of the descendants of the Maharaja of Travancore and the substantial prayer is to restore the patta in the name of the Royal Family



after rectifying the mistake committed by the Revenue Authority by transferring the patta to the name of the caretaker of the palace and thereafter, changing it into the name of the Government of Kerala.

THE BASIC FACTS:

W.P.(MD)No.13737 of 2013:

2. The challenge in this Writ Petition is to the order dated 26 February, 2010, whereby and whereunder, the District Revenue Officer, Tirunelveli District, rejected the representation submitted by the present Maharaja for restoration of entries in patta pass book and a direction was issued to take appropriate action to take possession of the bungalow by the State of Tamil Nadu.

3. The Maharaja of Travancore purchased two items of properties, vide document Nos.219/1882 and 350/1886. The property having an extent of 56.68 acres is situated in Re-survey Nos.33A, 33B, 34, 33/1 to 33/7, 34/1 to 34/3 corresponding to old Survey Nos.22A and 22B of Courtalam Village. The name of the Maharaja of Travancore was mentioned as the person in possession of the property.

4. The property purchased by the Maharaja was named 'Travancore House' and 'Courtalam Palace'. The Tahsildar, Tenkasi issued patta in the name of Maharaja of Travancore in 1973. The patta bearing No.51 contains the name of the Maharaja as the person in possession of the property. Subsequently, the patta was transferred to the name of Damodhara Pandiyan, who was appointed by the Maharaja as a caretaker to look after the property. Thereafter, patta was transferred to the Kerala Government. The writ petitioner submitted series of representations requesting to cancel the order transferring patta to the Government of Kerala. Subsequently, the Maharaja filed a petition before the District Revenue Officer, Tirunelveli, with a prayer to cancel the patta granted to the Government of Kerala and restore the original entry. The District Revenue Officer issued notice to the State of Kerala and after conducting enquiry, arrived at a conclusion that the Maharaja of Travancore has no rightful claim over the property in question. The District Revenue Officer opined that it is a fit case to be referred to the Government of Tamil Nadu for appropriate action to take possession of the bungalow and the land covering an extent of 56.68 acres. The said order is under challenge in this Writ Petition.

5. The Maharaja of Travancore expired on 16.12.2013. Thereafter, children of His Highness Thirumathi.Parvathi Devivarma and Thiru.Padmanabha Varma filed an application in M.P.(MD)No.1 of 2014 to appoint them as the petitioners in the place of the power agent of Maharaja, who originally filed the Writ Petition. The said application was allowed by this Court on 04.07.2016.



W.P.(MD)No.18108 of 2015:

6. This Writ Petition is filed by a member of the Travancore royal family for a direction to the District Revenue Officer, Tirunelveli District, to consider his representations dated 15.11.2014 and 17.09.2015 and rectify the error committed by the revenue authorities by transferring the patta pertaining to the land in Survey Nos.33/1, 5,7,3,6,34/1, 2,3,30/2, 355/2, 482/53, 190/5, 192/2, 35/2, 30/2, 355/2, 482/53, 190/5, 192/2, 194/2, 196/2, 35/2, 3, 30/1A, 1B, 22/1, 2, 23/2A/1 in Courtallam Village, Tenkasi Taluk. According to the petitioner, the Maharaja of Travancore has already filed a Writ Petition in W.P.(MD)No.13737 of 2013 challenging the order passed by the District Revenue Officer, Tirunelveli District. However, additionally, with a view to rectify the error, he has preferred two representations. Since those representations have not been considered, he has come up with this Writ Petition.

7. The District Collector, Kollam District, Kerala, filed a counter-affidavit in answer to the contentions raised in W.P.(MD) No.13737 of 2013. The District Collector admitted that the property in question was purchased by the then Maharaja of Travancore, as per sale deed No.3050/1886 on the file of Sub Registrar, Tenkasi. The District Collector, further, admitted that mutation of revenue records were effected in the name of Maharaja of Travancore and the basic tax of the said land was paid by Maharaja till 1949. The District Collector contended that the annexure to the letter dated 09.03.1951 issued by the Chief Secretary to Government of Travancore Cochin to the Private Secretary to Maharaja, Travancore, contain an entry with regard to the property to be retained by the Maharaja and the list of properties handed over to the State of Kerala after State re-organization. Since then, the land in question has been under the absolute control and enjoyment of the State of Kerala. The District Collector, therefore, contended that the order granting patta does not call for interference.

SUBMISSIONS:

8. The learned counsel for the petitioners in both the Writ Petitions contended that the subject property has been dealt with by the Maharaja of Travancore. The patta of the property originally stood in the name of the Maharaja, Travancore. However, for reasons best known and without notice, the revenue authorities transferred the patta to the name of Damodhara Pandiyan, who was a caretaker appointed by the Maharaja, to look after the property. Subsequently, again without notice to the Maharaja, the patta was transferred to the Government of Kerala. According to the learned counsel, the petition submitted by the Maharaja, which is the ~~same~~ petition submitted in W.P.(MD)No.13737 of 2013 was only to transfer the patta back to the royal family. The District Revenue Officer considered the petition and arrived at a finding without any



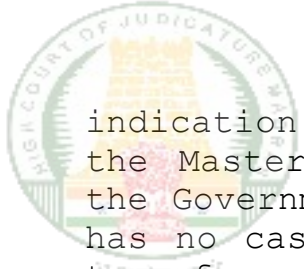
basis. The learned counsel further contended that the entire issue requires re-consideration, in view of the finding rendered by the District Revenue Officer to the effect that the property should go to the State of Tamil Nadu.

9. The learned counsel for the State of Kerala, while supporting the order, insofar as the transfer of patta is concerned, contended that the District Revenue Officer erred in concluding that the property belongs to the State of Tamil Nadu. The learned counsel submitted that the Maharaja has no right, title, interest or possession in respect of the property in question. The property has already been handed over to the State of Kerala. The learned counsel very fairly submitted that the order passed by the District Revenue Officer is liable to be set aside, insofar as the conclusion with regard to the vesting of ownership with the State of Tamil Nadu and the related direction.

10. The learned Additional Advocate General supported the order passed by the District Revenue Officer. According to the learned Additional Advocate General, patta was transferred legally to the Government of Kerala. There was no objection from the petitioners at any point of time with regard to the transfer of patta. The District Revenue Officer was, therefore, right in rejecting the request made by the petitioners for transfer.

DISCUSSION:

11. There is no dispute that the property in question was purchased by the Maharaja of Travancore. There were two palaces, one by name Travancore Palace and the other Courtalam Palace. The list of documents including the annexure to the letter sent by the Chief Secretary to the Government of Travancore, Cochin, to the Private Secretary of Maharaja, Travancore, dated 09.03.1951, shows that certain properties were retained by the Maharaja. The State of Kerala has come up with a contention that only the Travancore House was retained by the Maharaja and the palace of Courtalam was handed over to the Kerala Government. The said document was marked before the Revenue Divisional officer as per Ex.R.5(c). Even though the list -A contains the name of the palace handed over to the Government of Kerala by the Maharaja, the fact remains that the extent of the land and its survey numbers were not mentioned specifically. According to the petitioners, the extent of the property is 56.68 acres. Even the description of the property is not found mentioned. It is also an admitted position that the patta of the property was transferred to the name of Maharaja of Travancore immediately after purchase. The Maharaja of Travancore appears to have appointed Thiru.Damodhara Pandiyan as the caretaker of the palace. It is really strange to note that the patta of the property was transferred from the name of the Maharaja of Travancore to the name of the caretaker of the royal family by the revenue authority and that too, without notice. The order passed by the District Revenue Officer does not contain any



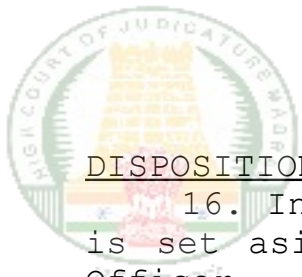
indication as to how the patta was transferred from the name of the Master to the servant. Thereafter, patta was transferred to the Government of Kerala. Here again, the District Revenue Officer has no case that the Maharaja was put on notice before effecting transfer.

12. The petitioners wanted the *status quo ante* to be restored. There is no dispute with regard to the *status quo ante* inasmuch as even according to the District Collector, Kollam District, patta of the property originally stood in the name of the Maharaja of Travancore. It is for the respondents to demonstrate as to how the patta was transferred to the name of Damodhara Pandiyan and thereafter, to the Government of Kerala.

13. The District Revenue Officer, in the order dated 26 February, 2010, clearly admitted that there is no mention of survey numbers with respect to the Courtalam Palace or Travancore House in the documents produced by the State of Kerala. The entrustment of the property with the caretaker is also admitted by the District Revenue Officer. There was no effort taken by the District Revenue Officer to identify the property known as Travancore House and Courtalam Palace with reference to its survey number and boundaries. This is more so on account of the fact that only the name of the palace was mentioned in the schedule of property handed over to the Government of Kerala by the Maharaja.

14. The District Revenue Officer acted beyond the brief by declaring that the property should go to the Government of Tamil Nadu on account of the re-organization of States. The Maharaja initiated the litigation against the State of Kerala before the District Revenue Officer, Tirunelveli. Both the petitioners and the State of Kerala being the contesting respondent are now aggrieved by the order passed by the District Revenue Officer, Tirunelveli District. In fact, the learned counsel for the State of Kerala also wanted the impugned order to be set aside for the purpose of deciding the issue once again taking into account the survey records.

15. The title to the property is not an issue to be decided by the District Revenue Officer. The District Revenue Officer is concerned only with the transfer of patta. The claim made by the Government of Kerala that the Maharaja has handed over the land in question along with the bungalow has nothing to do with the issue raised before the District Revenue Officer. The only issue relates to the transfer of patta. The petitioners have produced materials to show that the patta originally stood in the name of the Maharaja of Travancore. The limited issue is, therefore, as to how the patta was transferred to the name of Damodhara Pandiyan and thereafter, to the State of Kerala. The District Revenue Officer has not considered this basic issue, while rejecting the petition submitted by the petitioners. I am, therefore, of the view that the issue requires fresh consideration.

DISPOSITION:

16. In the result, the impugned order dated 26 February, 2010, is set aside and the matter is remitted to the District Revenue Officer, Tirunelveli District, for fresh consideration. The District Revenue Officer, is directed to consider the matter afresh on merits and as per law after giving reasonable opportunity to the petitioners and the State of Kerala. The representations submitted by the petitioner in W.P.(MD)No.18108 of 2015 should be considered along with the petition filed for transfer of patta, which is the subject matter in W.P.(MD)No.13737 of 2013. There is no need for the District Revenue Officer to decide as to who are all the legal heirs of Thiru.Padmanabha Dasa Uthradom Thirunal H.H.Marthanda Varma, who originally filed the Writ Petition in W.P.(MD)No.13737 of 2013. The only requirement is to decide as to whether the name of the pattadhar should be restored after cancelling the subsequent entries.

17. The District Revenue Officer is directed to conclude the proceedings, as expeditiously as possible and in any case, within a period of four months from the date of receipt of a copy of this order.

18. In the upshot, I allow the Writ Petition in W.P.(MD) No.13737 of 2013. The Writ Petition in W.P.(MD)No.18108 of 2015 is disposed of as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

- 1.The Principal Secretary of State of Tamil Nadu,
Revenue Department, St. George Fort,
Chennai.
- 2.The Principal Secretary of State of Kerala,
Revenue Department, Secretariat, Thiruvananthapuram.
- 3.The District Collector, Tirunelveli District.
- 4.The District Revenue Officer, Tirunelveli District.
- 5.The District Collector, Kollam District, Kerala State.
- 6.The Revenue Divisional Officer, Tenkasi Division,
Tirunelveli District.



7.The Tahsildar, Tenkasi Taluk,
Tirunelveli District.

+1cc to M/s.G.R.Swaminathan, Advocate in SR.36549
+1cc to M/s.J.Gunaseelan Muthiah, Advocate in SR.36139
+1cc to M/s.K.P.Narayanakumar, Advocate in SR.36265
+5cc to M/s.V.Vinayagamoorthy, Advocate in SR.36308
+1cc to the Special Government Pleader, in SR.36471 & 36472

W.P.(MD)Nos.13737 of 2013 and 18108 of 2015
Delivered on:13.07.2016

sml

PBK/SK-SKN/SAR-I 21/07/2016 ::8P-17C:: (IT)