

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2017

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. Nos. 23739 & 23740 of 2014

and

W.M.P.Nos. 2 & 2 of 2014 & 1 of 2015

Tata Communications Limited
Having its registered office at
VSB, Mahatma Gandhi Road, Fort,
Mumbai 400 001 and
Chennai office at
No.4, Swami Sivananda Salai,
Chennai 600 002 and
Rep.by its Deputy General Manager,
N.Kesava Prasad ... Petitioner in WP 23739

Videsh Sanchar Nigam Employees'
Co-operative Housing Society,
Rep.by its President Joseph Manoharan
No.4, Swami Sivananda Salai,
Chennai 600 002. ... Petitioner in WP.23740

Versus

- 1.Government of Tamil Nadu,
rep.by the Revenue Secretary,
Fort St.George, Chennai 600 009.
 - 2.The District Revenue Officer (DRO)
Thiruvallur District, Thiruvallur.
 - 3.The Tahsildar,
Ponneri Taluk, Thiruvallur District
- .. Respondents in both W.Ps.

W.P.No.23739 of 2016: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Manamus calling for the records/proceedings of the 2nd respondent culminating in the impugned order Rc.No.17099/2010/B3 dated 06.06.2011 and quash the same and consequently direct the 3d respondent to restore the entry in the revenue records including the patta in the name of the petitioner-Tata Communications Limited for property in survey No.155/2 and 156 in Padiyanallur Village, Ponneri Taluk, Thiruvallur District.

W.P.No.23740 of 2016 : Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Manamus calling for the records/proceedings of the 2nd respondent culminating in the impugned order Rc.No.17099/2010/B3 dated 06.06.2011 and quash the same and consequently direct the 3rd respondent to issue patta in favour of the members of the petitioner's society in respect of 32.5 acres of land in survey No.155/2 and 156 in Padiyanallur Village, Ponneri Taluk, Thiruvallur District.

For Petitioner : Mr. G. Masilamani, Senior Advocate
for Mr. Chevanna Mohan for
for M/s.King and Partridge (in WP 23739)
Mr. G. Masilamani, Senior Advocate
for Mr.M.Vijayan for
M/s.Karan and Uday (in WP 23740)

For Respondents : Mr. S. Rajeswaran
Special Government Pleader
in both Writ Petitions

COMMON ORDER

W.P.No.23739 of 2014 has been filed by the petitioner praying to issue a Writ of Certiorarified Mandamus calling for the records/proceedings of the 2nd respondent culminating in the impugned order Rc.No.17099/2010/B3 dated 06.06.2011, quash the same and consequently direct the 3d respondent to restore the entry in the revenue records including the patta in the name of the petitioner-Tata Communications Limited for property in survey No.155/2 and 156 in Padiyanallur Village, Ponneri Taluk, Thiruvallur District.

2. W.P.No.23740 of 2016 has been filed by the petitioner to issue a Writ of Certiorarified Manamus calling for the records/proceedings of the 2nd respondent culminating in the impugned order Rc.No.17099/2010/B3 dated 06.06.2011 and quash the same and consequently direct the 3rd respondent to issue patta in favour of the members of the petitioner's society in respect of 32.5 acres of land in survey No.155/2 and 156 in Padiyanallur Village, Ponneri Taluk, Thiruvallur District.

3. According to the learned senior counsel appearing for the petitioner, All India Radio and Telecommunication Company Ltd., a private company, which was operating India's external telecommunication was taken over by the Government of India and vested with the Government as a Department called Overseas Communications Services(OCS). On 29.03.1954, the then Government of Madras in Memorandum No.47800/C/52-14 sanctioned the transfer

of land measuring 85.94 acres of Padiyanallur Village to Government of India, Ministry of Communications, Overseas Communications Service for establishing a Radio Telegraph and Radio Telephone receiving station. In 1960, OCS wireless receiving station was established at Padianallur. In 1962, the land in S.No.155/2 and 156 was shown as central Government land. Subsequently, the Government of India, Ministry of Communication by its memorandum dated 27.03.1986 conveyed transfer of assets and liabilities of Overseas Communications Services (OCS) to Videsh Sanchar Nigam Limited (VSNL) (TATA Communications). On 01.04.1986, the Overseas Communications (OCS) was converted into a fully owned Government of India Enterprise called Videsh Sanchar Nigam Limited (VSNL). In 1995, VSNL requested the Collector of Chinglepet to effect the change of name for the land owned by GOI (OCS) to VSNL (GOI Enterprise). The District Collector, Chengalpattu issued a letter to the Tahsildar, Ponneri with regard to the transfer of name. In the meanwhile, on 23.02.1998, a suit in O.S.No.35 of 1998 was filed by one Venkat Rao against VSNL before District Munsif Court, Ponneri. By virtue of common order dated 08.11.2000 made in CMA Nos.13 & 14 of 1999 in I.A.Nos.142 & 1250 of 1998 in O.S.No.35 of 1998, the Sub Court held that the property was in possession of VSNL. Subsequently, in the year 2001 by letter dated 23.10.2001 Government of India stated that the transfer of assests from OCS to VSNL was with effect from 01.04.1986, by which, the Government of India acknowledged and accepted the transfer of assets. By order dated 13.02.2002, pursuant to disinvestment policy of the Government, the VSNL was vested with TATA Group.

4. A suit O.S.No.35 of 1998 filed by P.Ventaka Rao was also dismissed on 11.02.2011. The said Venkata Rao preferred an appal in A.S.No.70 of 2011 which is still pending before the Sub Court, Ponneri. In the meanwhile, on 06.06.2011, patta granted in favour of TATA Communication was cancelled by the District Revenue Officer, Tiruvallur in his proceedings Rc.No.17099/2010/B3 which is impugned order in the writ petition.

5. The VSNL Co-operative Housing Society, aggrieved over the disinvestment policy, filed a writ petition before the Delhi High Court in W.P.No.12002 of 2006 against the Government of India. The Delhi High Court by order dated 17.05.2007 directed the Government of India to transfer 32.5 acres of land in Padiyanallur to VSNL Co-operative Housing Society. Subsequently, the name of VSNL was changed into TATA Communication Limited on 28.01.2008. The Division Bench of Delhi High Court by order dated 29.04.2008 in LPA.No.1252 of 2007 confirmed the order in Writ Petition No.12002 of 2006 dated 17.05.2007. Thereafter, consent letter for issuance of patta in favour of TCL by the Ministry of Communication & IT to the Secretary, Revenue Department, Govt. of Tamil Nadu was given on 13.10.2008. Subsequently, by letter dated 27.01.2009, the

Tahsildar, Ponneri requested the District Collector, Thiruvallur to transfer patta in Survey No.155/2 and 156 in favour of TCL . On 07.07.2009, patta was granted in favour of the petitioner company vide patta No.3226. Thereafter a revision petition was filed by one AKK Elangovan on behalf of the above said P.Venkata Rao. On 31.05.2010, a letter was sent by TATA Communication to the District Revenue Officer, Thiruvallur with reference to the revision petition preferred by A.K.K.Elangovan dated 05.05.2010 and requested to furnish the documents filed in support of the revision. In the mean while, an order was passed in CRP.(PD) No.119 of 2010 filed by P.Venkata Rao against TCL on 23.07.2010. Subsequently, a petition was also presented by Venkata Rao through Power of Attorney to the Government of India seeking cancellation of Memorandum dated 29.03.1954 by which the lands were transferred to TCL. Simultaneously another representation was given by one Sundaram and others, petitioners in W.P.No.9004 of 2013, for grant of Ryotwari patta after 60 years. The said representation was rejected by following G.O.Ms.No.714 dated 29.06.1987.

6. According to the learned Senior counsel for the petitioner, another writ petition was filed by Venkata Rao in W.P.No.11859 of 2014 for a direction to dispose of his representation. The said writ petition was disposed of on 25.04.2014 directing the authority to consider the same. Thereafter, TATA Communication filed an application to implead themselves in W.P.No.9004 of 2013. In W.P.No.23739 filed by TCL, an interim order was passed regarding the cancellation of patta on 03.09.2014. Subsequently, the above writ petition was dismissed on 24.09.2014. As against the same, an appeal W.A.No.96 of 2015 was preferred by Sundaram and others, which is pending. A contempt petition was also filed in Cont No.935 of 2015 by Venkata Rao against the Revenue Secretary for non-compliance of the order dated 25.04.2014 in W.P.No.11859 of 2014. Again, W.P.No.16308 of 2015 was filed by Venkata Rao in respect of same property, without making TCL as a party, which was dismissed on 11.06.2015. In fact according to the learned Senior counsel, even now in the writ appeal in W.A.No.96 of 2015 filed by Sundaram and others, the authority by its counter affidavit confirmed that the writ petitioner was the owner of the property. Another writ appeal in W.A.No.1042 of 2015 was filed by Venkata Rao, challenging the order passed in W.P.No.16308 of 2015 dated 11.06.2015 and the same was dismissed as withdrawn.

7. According to the learned Senior counsel for the petitioner, on 25.06.2015, a counter affidavit was filed by the Government in W.A.No.96 of 2015 confirming the writ petitioner as owner of the property. Therefore, the Contempt Petition No.935 of 2015 and the Review Application No.197 of 2015 were dismissed by a detail order. Subsequently, the Division Bench

dismissed W.A.No.96 of 2015 on merits thereby confirming the order passed in W.P.No.9004 of 2013 dated 24.09.2014. As against the dismissal of W.A.No.96 2015, an appeal was filed before the Supreme Court in SLP(C) No.13454 of 2016 which was also dismissed on 13.05.2016. Therefore, the learned Senior counsel would contend that the property has been enjoyed by the Central Government and thereafter, the same was devolved upon the Tata Communications Limited. In the earlier proceedings, BSNL as well as Tata Communications Limited have not been impleaded to have an effective adjudication of the case. Therefore, this Court categorically held that the subsequent order especially cancellation of patta without even adding the proper persons as parties is not correct. Secondly against the orders passed by the Delhi High Court in the other writ petition filed by the Co-operative Society, the Government of India filed an appeal and the order passed in the writ petition was confirmed and thereafter, the allotment was made. Therefore, the learned Senior counsel for the petitioner prayed for allowing the writ petitions.

8. On the above contentions of the learned Senior counsel for the petitioner, this Court heard the learned Special Government Pleader appearing for the official respondents and perused the materials placed on record.

9. A review petition was filed by one A.K.K.Elangovan who is none other than the power of attorney of P.Venkata Rao, who had been filing many cases, which are appended herein with.

Sl. No.	Case Number & Court	Parties	Counsel on Record for Petitioners	
1	O.S.No.35/1998 Munisf Court, Ponneri	P.Venkata Rao 1.Videsh Sanchar Nigam Ltd, Mumbai 2.Videsh Sanchar Nigam Ltd., Chennai. 3.Secretary Revenue Department 4.District Collector, Thiruvallur District 5.Thasildar, Ponneri	Originally Advocate N.R.Gopalan thereafter at the time of disposal of suit Exhilmani	Suit dismissed on 11.02.2001

Sl. No.	Case Number & Court	Parties	Counsel on Record for Petitioners	
2	A.S.No.70 of 2011 Against order passed in O.S.No.35/1998 dated 11.02.2011 Sub Court, Ponneri.	P.Venkata Rao 1.Videsh Sanchar Nigam Ltd, Mumbai 2.Videsh Sanchar Nigam Ltd., Chennai. 3.Secretary Revenue Department 4.District Collector, Thiruvallur District 5.Thasildar, Ponneri	R.S.Ravindran & S.Venkatesan	Appeal Pending.
3	C.R.P.No.1119 of 2010 against order dated 23.10.2009 in I.A.No.995 of 2009 in O.S.No.35 of 1998	P.Venkata Rao 1.Tata Communications Ltd., Mumbai 2.Tata Communications Ltd., Chennai	Mohammed Shafi	CRP Dismissed on 23.07.2010
4.	Revision petition before DRO, Thiruvallur	P.Venkata Rao through Power of Attorney AKK Elangovan vs. Tata Communications Ltd.,		Revision Petition dismissed vide order dated 06.06.2011 and patta of TCL also
5	W.P.No.11859 of 2014	P.Venkata Rao rep.by AKK Ilangovan vs. 1.Secretary to Government, Revenue Department 2.District Collector	R.Asokan	Cancelled suo moto by the DRO without jurisdiction order impugned in the present writ petition

Sl. No.	Case Number & Court	Parties	Counsel on Record for Petitioners	
6	Contempt petition No.935 of 2015	P.Venkata Rao rep.by AKK Ilangovan vs. Venkatesan I.A.S. Revenue Secretary	P.Subba Reddy	Common orders passed in contempt and review applications by Hon'ble Justice B.Rajendran on 19.01.2016
7	Review Appln.Nos.192, 197 of 2015 and 210 of 2015	State of Tamilnadu, Revenue Secretary, Tata Communication Limited Housing Society vs. P.Venkata Rao	R.Subba Reddy	Review applications allowed, contempt No.935 of 2015 closed and W.P.No.11859 of 2014 dismissed
8.	W.P.No.16308 of 2015	P.Venkata Rao rep.by AKK Ilangovan	V.N.Santhi	Writ dismissed on 11.06.2015 by Hon'ble Justice M.Sathyana rayanan
9	W.A.No.1042 of 2015	P.Venkata Rao vs. State	K.Aparna Devi	Writ Appeal withdrawn on 04.08.2015 after Division Bench was not inclined to entertain the same

Sl. No.	Case Number & Court	Parties	Counsel on Record for Petitioners	
10	W.P.No.9004 of 2013	Sundaram and 10 others vs. Principal Secretary and Commissioner of Land Administration and others	Originally M.Muthappan thereafter T.Mohan for K.Balakrishnan	Writ petition dismissed by Hon'ble Justice V.Ramasubramaniam on 24.09.2014
11	W.A.No.96 of 2015	Sundaram and 10 others vs. Principal Secretary and Commissioner of Land Administration and others	S.Prabhakaran for K.Balaskrishnan	Writ Appeal against order passed in W.P.No.9004 of 2013 dated 24.09.2016 dismissed on 09.02.2016
12	SLP(C) No.13544 of 2016	Sundaram and 10 others vs. Principal Secretary and Commissioner of Land Administration and others	Guru Krishna Kumar, Senior Advocate for c.Balaji	SLP dismissed on 13.05.2016

10. At the instance of third party who has been unnecessarily filing one case or another, the present impugned orders came to be passed. The petitioner is claiming that they are owner of the land, even though, originally it was owned by the Government and the authority came to very clear conclusion that the revision petitioner has no legal right over the property. The file bearing No.B1.510/2008 dated 03.07.2009 although called for, the authority is able to get a ready made reply that the files in the Taluk Offices could not be available or the filing is missing and/or not traceable.

11. The land in question was originally vested with the Central Government. First of all, it is not the case of the Central Government seeking transfer of the name. Secondly, earlier it is stated that the Central Government had dispute with the Tata Communication Limited. That being so, when Central Government is the owner, the state Government has no authority to maintain the land and can transfer the same. Under such

circumstances, the order passed by the authority is without any basic knowledge in the eye of law. In this connection, reliance was placed upon the Judgment of this Court in the Review Application Nos.192,197 and 210 of 2015. The counsel for the petitioners also invited my attention to the Judgment in Writ Appeal No.96 of 2015, wherein a counter has been filed by the The Principal Secretary and Commissioner of Land Administration. The said counter affidavit reads as follows:

'4. With reference to Ground (b) of the Affidavit, it is submitted that the Hon'ble High Court, in para 20 of the Order, has stated that the vesting admittedly took place in this case, in January 1951 and the petitioners wanted the Commissioner of Land Administration to take action in 2013, after a gap of 62 years. Even a suo motu powers of revision cannot be exercised at this distance of time, as the land (i) first vested with the State Government (ii) next got transferred to the Central Government (iii) later got vested with VSNL and (iv) subsequently got vested with the TCL in part and the employees of the co-operative society in respect of the balance. Therefore, a suo motu power of revision that would upset all these vestings that had been taken place over a period of 60 years, cannot be exercised by the 1st respondent.'

12. It is evident that in the counter, it is clearly stated about the successive transfer of the land in question. It is clearly stated that the land originally vested with the State Government, and then to Central Government, later to VSNL and presently vested with TCL. Further, in the review application, the very same fact was admitted in para-7 which reads as follows:

'7. It is further stated by the review applicants that earlier, the petitioner and 10 others have filed WP No. 9004 of 2013 before this Court to quash the order of the Commissioner of Land Administration dated 28.02.2013, by which the Commissioner of Land Administration declined to entertain the application of the petitioners therein for grant of patta as it was filed after lapse of 60 years. This Court, taking note of the above position, has dismissed the writ petition No. 9004 of 2013 on 24.09.2014. Challenging the order dated 24.09.2014, Writ Appeal No. 96 of 2015 was filed and it is pending. In the above circumstances, it is contended by the review applicants that the order dated 25.04.2014

passed by this Court in WP No. 11859 of 2014 directing the first respondent/first review applicant herein to consider the representation dated 24.04.2010 and 04.10.2012 of the petitioner has to be reviewed especially when the petitioner has suppressed many material facts relating to filing of the earlier cases before this Court in the writ petition No. 11859 of 2014 filed by him. It is also stated that as per Section 12 of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act the review applicants have no jurisdiction to decide the claim made by the petitioner as it is highly belated.'

13. Therefore, it is not open for the respondents to state that the property has been mistakenly transferred. Further, in para Nos. 25 & 26 it was stated as follows:

'25. It is evident that in the representation dated 04.10.2012, the petitioner prays for cancellation of the Memorandum dated 29.03.1954 issued in favour of Overseas Communication Services i.e., VSNL. Even according to the petitioner, by virtue of the Memorandum dated 29.03.1954, the lands stood transferred or vested with Overseas Communication Services. Admittedly, the petitioner has not challenged the Memorandum dated 29.03.1954 till date. While so, the petitioner ought to have impleaded VSNL as well as Tata Communications Limited as a party to the writ petition No. 11859 of 2014 to have an effective adjudication of the lis. As rightly pointed out by the Review Applicants, the prayer sought for by the petitioner is innocuous and it has been sought for to indirectly achieve something which could not be achieved directly. Therefore, I find force in the submission of the learned Senior counsel for the review applicant in Review Application No. 197 of 2015 that they are proper and necessary parties for adjudication of WP No. 11859 of 2014 filed by the petitioner, however, wantonly, they were not impleaded in the writ petition.

26. As rightly pointed out by the learned Additional Advocate General, even a suo motu power of revision cannot be exercised at this distant point of time by the Government especially when the lands in question were already vest with the State Government and they were transferred to the Central Government. Subsequently, part of those lands were re-transferred and vested with Tata Communications Limited and the balance lands were allotted in favour of the

employees of the Cooperative Society of VSNL. In those situation, it has to be stated that much water has flown under the bridge and the petitioner is estopped from filing the WP No. 11859 of 2014 with an innocuous prayer to consider his representation.''

14. Thus the respondents, all along been treating the property vested with the Central Government in 1954 and thereafter it has been transferred in accordance with law. Further the order made in review application has become final. In view of the above, the impugned order is liable to be set aside. The property has been transferred only in the name of Tata Communications and patta has been granted. As far as, the impleading petition is concerned, it has been filed by the husband of a member in Videsh Sanchar Nigam Employees Cooperative House Site Society Limited. Paragraphs 6 and 7 of the affidavit c can be usefully extracted.

''6. I submit that the said committee members misused their position and collected huge amount from the members and the same was not credit in the society, in this connection some of the members were approached this Hon'ble Court and filed writ petitions and the same is pending before this Hon'ble Court. For the purpose of to bring the said Co-op.Society Committee Members corrupt practice to the knowledge of government as well as to the members, I made request before the Public Information Officer, Collector Office, Tiruvallur District, Tiruvallur for furnishing certain details on 26.03.2012 under Right to Information Act, but the Public Information Officer, Collector Office, Tiruvallur District, Tiruvallur not inclined to furnish the same with all details, hence I made several applications under Right to Information Act seeking said particulars to furnish to me. But the Public Information Officer, Collector Office, Tiruvallur District, Tiruvallur not inclined to pass any orders on my applications and finally on 22.08.2013. I approached the Commission, RTI and made an application under Right to Information Act, but the Commissioner, RTI in earlier occasion direct the Public Information Officer, Collector Office, Tiruvallur District, Tiruvallur to furnish such informations to me, but inspite of it no information has been

furnished to me. Hence I approached this Hon'ble Court and filed Writ Petition in W.P.No.17185 of 2014 praying for to dispose my written representation dated 22.08.2013, when the above writ petition came up before this Hon'ble Court on 01.07.2014 and this Hon'ble Court was pleased to pass order whereby directing the Public Information Officer, Collector Office, Tiruvallur District, Tiruvallur to pass order on my written representation in respect of furnishing information seeking by me within period of three months. After getting orders from this Hon'ble Court I approached the respondents therein then I received the informations from the respondents in regarding with the above said land, then I went to Delhi and gather more particulars in regarding with above said land.'

7. I submit that after getting informations from the office of the District Collector, Tiruvallur as well as from the Department of Telecommunications, New Delhi through RTI Act with shock and surprise the writ petitioner seeking relief to retain the petitioner's name in the revenue records and patta transfer in favour of the writ petitioner's name without verifying the records and Central Government orders the said Tahsildar issued order in favour of the writ petitioner. But the same was challenged before the 3rd respondent herein i.e., District Revenue Officer, Tiruvallur and the third respondent set aside the order of Tahsildar, Ponneri and ordered to retain in the revenue records lands that was challenged by the writ petitioner by suppressing the entire facts what was happened in the year of 1986 to till date.

15. In view of the above, the petitioner in the impleading petition has nothing to do with the present dispute and he is not a necessary and proper party. Hence M.P.No.1 of 2015 in W.P.No.23740 of 2014 is dismissed.

16. In the result, the writ petitions are allowed. The respondents are directed to make necessary alteration in the revenue records to restore the original name. The Society members are also entitled to include their names in the patta. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Revenue Secretary,
Fort St.George, Chennai 600 009.
2. The District Revenue Officer (DRO)
Thiruvallur District, Thiruvallur.
3. The Tahsildar,
Ponneri Taluk, Thiruvallur District.

+3 Ccs to M/s.Karan and Uday , Advocate sr 14240
+2 Ccs to M/s.King and Partridge, Advocate sr 13696
+2 Ccs to Mr. C. Prakasam, Advocate sr 13905
+1 CC to The Govt.Pleader sr 13842

WP Nos. 23739 & 23740/2014

SK (CO)
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