

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**W.P.No.9294 of 2012****ORDER:**

This Writ Petitioner is filed by petitioners seeking a Writ of Certiorari to quash proceedings dt.31-03-2011 in S.R.No.4/15(1)/97 of Joint Collector-cum-Settlement Officer, Chittoor (2nd respondent) as illegal, arbitrary and contrary to the provisions of Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari Patta) Act, 1948 (for short 'the Act') in insofar as it relates to petitioners, and consequently direct the 2nd respondent as well as the Tahsildar, Varadaiahpalem Mandal, Chittoor District (3rd respondent) to grant ryotwari patta in favour of petitioners under the provisions of the said Act and Rules made thereunder.

2. Ten of the petitioners herein are legal heirs of B. Krisshnama Naidu.

3. The 1st respondent in the Writ Petition is the State of Andhra Pradesh.

4. Three of the petitioners in this case are Senior Citizens. Arguments of Sri Y.Chandrasekhar, Advocate, for Sri A.Sudhakar Rao, the learned counsel for the petitioners were heard on 07-03-2017 and 20-03-2017 and the matter was posted to 28-03-2017 for submission of arguments on behalf of respondents.

On 28-03-2017, the learned Advocate General for the State of Andhra Pradesh requested adjournment by two weeks to enable him to go through the record and argue the case. The case was then posted to 13-04-2017.

Though it was in the cause list, it could be taken up only on 19-04-2017. On that day, a request was made on behalf of the Advocate General that he was unwell.

So the matter was adjourned to 25-04-2017 at 2.30 p.m. specifically recording that no further adjournment will be granted on that day. On 25-04-2017, a request was made that the matter be heard after summer vacation. But the Court declined the request and posted for hearing to today.

On 26.4.2017, a memo is filed by Sri P.Krishna Prakash, Special Government Pleader, for adjournment of the matter beyond summer vacation stating that the learned Advocate General is still unwell.

Having regard to the fact that some of petitioners are Senior Citizens, that the matter has been coming in the list from 07-03-2017 and was part heard, and also having regard to the fact that sufficient time has been granted to the respondents to address arguments, alternative arrangement could have been made by the office of the Advocate General in the event of his ill health, permitting the Government Pleader or other counsel to make submissions.

Therefore, request for adjournment made on behalf of the Advocate General was refused and orders were reserved.

5. The subject matter of the Writ Petition is share in land in Padirikuppam village. It is part of Revenue village of Pandur and originally formed part of Ponneri Taluk of Chengalpattu District in the erstwhile State of Madras. Under Hari Vinayak Pataskar Award, this village came to be transferred to the State of Andhra Pradesh on 01-06-1960.

6. Padirikuppam was covered under a title deed and owners of the lands were the original inamdars. It was Shotriam village in which the Shotriamdars had both Melvaram and Kudivaram rights. They were personally cultivating the lands with dry and wet crops having farm house servants.

7. Petitioners, who claim through B.Krishnam Naidu, contend that the original inamdars sold $13 \frac{1}{4}^{\text{th}}$ share out of 16 shares to petitioners and their ancestors and similarly the remaining $2 \frac{3}{4}^{\text{th}}$ share to certain third parties and their ancestors. The registered sale deeds relied on by the petitioners are dt.02-06-1893, 04-04-1896, 06-09-1901, 01-09-1913, 25-02-1920 (four sale deeds), 26-02-1920 (two sale deeds), 27-11-1951, 15-05-1953, 10-02-1963 (three sale deeds), 01-04-1963 (two sale deeds) in support of their above plea.

8. Thus the petitioners claim to have stepped into the shoes of original inamdars and claim to be land holders.

9. After the advent of the Act, the tenure of Padirikuppam was examined by the then Assistant Settlement Officer, III Chittoor under Section 9 of the Act. He held in his proceedings No.34/Ponneri dt.31-07-1950 that grant was of the whole village and having been recognised by the British govt., it is an 'estate' only by virtue of Madras Estates Land(Third Amendment) Act of 1936, which kind of estates are excluded from definition of 'inam estate' under the Act. He held that therefore Padirikuppam is not an "inam estate".

10. It is not in dispute that a notification was issued by the State Government under Section 1 (4) of the Act vide G.O.Ms.No.645 dt.19-04-1963 declaring Padirikuppam village as inam estate and taking it over on 22-06-1963.

11. After the coming into force of the A.P.Amendment Act XVIII of 1957 amending the Madras Estates (Abolition and conversion into Ryotwari) Act,1948, applying the provisions of the said Act also to whole inam villages which became estates under the Madras Estates Land (Third Amendment) Act,1936 i.e those in which the inamdars possessed both the melwaram and kudiwaram rights, B.Krishnam Naidu questioned the order dt.31-07-1950 of the Assistant Settlement Officer, Chittoor in A.S.No.17 of 1964 before

the Estate Abolition Tribunal, Chittoor impleading other share holders as respondents 2-20.

12. The said appeal was allowed on 21-06-1966 and it was held that the grant was not of whole village, that the Settlement Officer was in error in treating poramboke land as equivalent to communal land, and therefore it is not an “estate” under Section 3 (2) (d) of the Madras Estates Land Act, 1908.

13. The State of Andhra Pradesh filed W.P.No.4127 of 1969 against B.Krishnam Naidu and 19 others before this Court challenging the order dt.21-06-1966 in A.S.No.17 of 1964 of the Estate Abolition Tribunal, Chittoor. In the said Writ petition it specifically contended that the Estates Abolition Tribunal erred in its conclusion that the Padirikuppam village is not an ‘estate’.

14. On 07-09-1973, the said Writ Petition was allowed and the order of the Estate Abolition Tribunal, Chittoor in A.S.No.17 of 1964 was set aside. This Court held that the sole ground on which the Estate Abolition Tribunal held that the village was not an “estate” was that a large extent of area was deducted as *poramboke*; that in fact the *poramboke* was also included in the grant; that the deduction of the *poramboke* was only for the purpose of computing assessment payable and does not communicate the idea that the lands do not form part of the grant; and the conclusion of the Tribunal was therefore erroneous. It thus held that the grant was of a whole village

and was an “estate” within the meaning of Section 3 (2) (d) of the Madras Estates Land Act, 1908 as amended by Madras Act XVIII of 1936 i.e The Madras Estates Land (3rd amendment) Act, 1936.

15. This was questioned by the B.Krishnam Naidu in W.A.No.275 of 1974 before a Division Bench of this Court. The said Writ Appeal was dismissed on 10-06-1974.

16. B.Krishnam Naidu then filed Civil Appeal No.79 of 1975 in the Supreme Court of India challenging the order dt.10-06-1974 in W.A.No.275 of 1974. Pending the said case, he died and his wife and 5 sons were impleaded as respondents therein. The sons are B.Govinda Swami Naidu, B.Nagaratnam Naidu, B.Narsimhulu Naidu, B.Munuswami Naidu and B.Muniratnam Naidu and his wife is B.Lakshamma. The Civil Appeal was dismissed on 30-08-1990.

17. In the meantime, on 16-07-1978, the sons of B. Krishnam Naidu applied for patta under Section 15 of the Act to the Settlement Officer, Nellore. They impleaded as respondents the other shareholders also.

18. On 04-12-1980, the Settlement Officer, Nellore returned the applications stating that matter was still pending in the Supreme Court.

19. The applicants for patta then filed Appeal No.2 of 1981 before the Estate Abolition Tribunal, Chittoor challenging the endorsement of the Settlement Officer, Nellore.

20. On 30-06-1983, the Tribunal held that the Supreme Court had not stayed taking over of the Estate pursuant to the Notification G.O.Ms.No.645 dt.19-04-1963 declaring Padirikuppam as “estate” under the Act; and therefore Settlement Officer cannot refuse to entertain applications under Section 15 of the Act simply on the ground that the case is pending in the Supreme Court questioning the validity of the Notification referred to above. It set aside the endorsement of the Settlement Officer, Nellore and directed him to number the application under Section 15 of the Act and hold enquiry or keep it pending until the disposal of the case in the Supreme Court.

21. On 29-07-1997, fourteen years after the order dt.30-06-1983 in A.S.No.2 of 1981 of the Estate Abolition Tribunal, Chittoor and seven years after the dismissal of the Civil Appeal No.79 of 1975, the Joint Collector-cum-Settlement Officer, Chittoor numbered the application as S.R.No.4/15(1)/97.

22. Before him, several documents (Exs.P-1 to P-43) were filed by petitioners.

23. Fourteen years after numbering the application, the 2nd respondent dismissed the said application by the impugned order dt.31-03-2011 stating that the land is not an “inam estate” and that the

applicants for patta are not entitled to grant of ryotwari patta under Section 15 of the Act. According to him, the provisions of the Act do not apply to the land since it is not an “inam estate”. This conclusion is not supported by any reasons.

24. The 2nd respondent, in the impugned order had noted that survey and settlements operations were introduced in the village on 1.7.1965 as per the above G.O. According to the counter filed by the Tahsildar, Varadiahpalem (3rd respondent) before the 2nd respondent also, this notification and notification no.159 dt.9.5.963 were upheld by the Supreme Court.

25. When the Government itself issued notification vide G.O.Ms.No.645 dt.19-04-1963 declaring that it is an “inam estate” under Section 1 (4) of the Act and taking it over on 22-06-1963, and this Court in W.P.No.4127 of 1969 held that Padirikuppam was an “estate” (and reversed the view of the Estate Abolition Tribunal in A.S.No.17 of 1964 that Padirikuppam was not an “estate” within the meaning of the Act as amended in 1936) and the said view was confirmed even by the Supreme Court in Civil Appeal No.79 of 1975 on 30-08-1990, it is not open to the 2nd respondent to come to a contrary conclusion. He is bound by the decision of this Court which was confirmed by the Supreme Court.

26. The 2nd respondent in the impugned order held that the copy of the Inam Fair Register extract in relation to the village produced by petitioners, is irrelevant.

27. It is settled law that it's contents have great evidentiary value. In **Vatticherukuru Village Panchayat v. Nori Venkatarama Deekshithulu**¹, the Supreme Court emphasised this. It declared:

“12. ... Therefore, entries in IFR bear great evidenciary value to ascertain their rights. In A.R.R.M.V. Arunachallam Chetty v. Venkatachalapathi Guruswamiga², the Judicial Committee of the Privy Council considered the effect of the columns in the IFR and held thus : (AIR p. 65)

“It is true that the making of this Register was for the ultimate purpose of determining whether or not the lands were tax free. But it must not be forgotten that the preparation of this Register was a great act of State, and its preparation and contents were the subject of much consideration under elaborately detailed reports and minutes. It is to be remembered that the Inam Commissioners through their officials made enquiry on the spot, heard evidence and examined documents, and with regard to each individual property, the government was put in possession not only of the conclusion come to as to whether the land was tax free, but of a statement of the history and tenure of the property itself. While their Lordships do not doubt that such a report would not displace actual and authentic evidence in individual cases, yet the Board when such is not available, cannot fail to attach the utmost importance, as part of the history of the property, to the information set forth in the Inam Register.

13. ... Therefore, the entries in the IFR are great acts of the State and coupled with the entries in the survey and settlement record furnish unimpeachable evidence....”

¹ 1991 Supp (2) SCC 228

² AIR 1919 PC 62,65

28. Thus where the evidence of the original grant is unavailable, the entries in the Inam Fair Register have to be considered and cannot be ignored.

29. Admittedly even according to the 2nd respondent, the certified copy of the Inam Fair Register shows the confirmation of the Inam title deed No.833 by order dt.3.9.1861 on payment of quit rent.

30. The Settlement Officer, No.III, Chittoor recorded in his order that according to the IFR, a personal inam was granted to Sri P.Venkatarama Somayaji, that it shows total ayacut of Ac.1226 and deducts porambokes and Inams, and mentions the remainder as Shrotrium.

31. The 2nd respondent further held that the applicants for patta under Section 15 of the Act before him did not establish how their vendor acquired rights over the land. At this point of time, the 2nd respondent cannot expect the petitioners to establish how their vendor got title to the land. This approach is clearly perverse and unsustainable.

32. Admittedly in W.P.No.4127 of 1969 filed by the State of Andhra Pradesh in the High Court challenging the order dt.21-06-1966 in A.S.No.17 of 1964 of the Estate Abolition Tribunal, Chittoor, it had impleaded B.Krishnama Naidu, Venkatarama Naidu as respondents; W.A.No.275 of 1974 was filed by B.Krishnama Naidu; and he filed Civil Appeal No.79 of 1975 in the Supreme Court;

B.Krishnama Naidu died during the pendency of the Civil Appeal No.79 of 1975; his legal representatives were his five sons B.Govinda Swami Naidu, B.Nagaratnam Naidu, B.Narsimhulu Naidu, B.Munuswami Naidu and B.Muniratnam Naidu and his wife was B.Lakshamma. The right, title and interest of B.Krishnam Naidu was thus admitted by the State Government itself. It has never been disputed by it.

33. The applicants under Section 15 of the Act before the 2nd respondent were the four sons of B.Krishnam Naidu by name B.Govinda Swami Naidu, B.Narsimhulu Naidu, B.Munuswami Naidu and B.Muniratnam Naidu and the son of B.Nagaratnam Naidu, by name Babu. Petitioner Nos.1 to 10 before this Court are two of sons of B.Krishnam Naidu and his grandchildren. The documents of title and the link document starting from 1893 have been placed on record by the petitioners. No third party has disputed their title to the 13 ¼ share in the village claimed by them.

34. Having admitted the right, title and interest of B.Krishnam Naidu in 1969 itself, the respondents cannot now question it and are estopped in law from doing so.

35. Therefore the finding of the 2nd respondent that the petitioners did not satisfy the conditions necessary for grant of ryotwari patta under Section 15 of the Act, is set aside. The 2nd respondent shall consider the case of the petitioners for grant of

ryotwari patta under Section 13 read with Section 15 of the Act afresh and pass reasoned order and communicate the same to the petitioners within six months.

36. Accordingly, the Writ Petition is allowed; Order dt.31-03-2011 in S.R.No.4/15(1)/97 of the 2nd respondent is set aside; it is declared that Padirikuppam village, Varadaiahpalem Mandal, Chittoor District is an “inam estate” and covered by the provisions of the Andhra Pradesh Estates (Abolition and Conversion into Ryotwari) Act, 1948; in view of G.O.Ms.No.645 dt.19-04-1963, it was taken over by the State Government on 22-06-1963; and the respondent No.2 is directed to consider the case of the petitioners for grant of ryotwari patta under Section 13 read with Section 15 of the said Act within six months from the date of receipt of a copy of this order, pass a reasoned order and communicate the same to the petitioners. The 1st respondent shall pay costs of Rs.3,000 (Rupees Three Thousand only) to the petitioners.

37. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-06-2017
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