

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.10.2018

Pronounced on : 20.11.2018

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.11784 of 2008

and

W.M.P.Nos.1 & 2 of 2008

V.S.Babu

... Petitioner

Vs.

The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai - 600 011.

...Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in R Dis (K1) 51540/2001, dated 19.08.2002, which was served on the petitioner on 28.04.2008, and quash the same as illegal, unlawful, ultra vires, and against the principles of natural justice, and consequently direct the respondent to issue patta in respect of petitioner's immovable property comprised in S.No.60/4, kolathur Village, Chennai-99, having an extent of 00.71 acres.

सत्यमेव जयते

For Petitioner : Mr.T.S.Rajamohan

For Respondent : Mr.N.Inbanathan
Additional Government Pleader

O R D E R

The relief sought for in this writ petition is to call for the records of the respondent in R Dis (K1) 51540/2001, dated

19.08.2002, which was served on the petitioner on 28.04.2008, and quash the same as illegal, unlawful, ultra vires, and against the principles of natural justice, and consequently direct the respondent to issue patta in respect of petitioner's immovable property comprised in S.No.60/4, Kolathur Village, Chennai-99, having an extent of 00.71 acres.

2. Heard Mr.T.S.Rajamohan, learned counsel appearing for the petitioner and Mr.N.Inbanathan, learned Additional Government Pleader appearing for the respondent.

3. The learned counsel appearing on behalf of the petitioner made a submission that the petitioner is in possession and enjoyment of the property for more than five decades situated in Survey No.60/4, to an extent of 0.71 acres, at Kolathur Village.

4. The land was originally classified as "Nanja Anadeenam". The petitioner preferred an appeal before the Assistant Settlement Officer, Tiruvannamalai, for issuance of patta in his favour on the ground that the property was originally classified as "Nanja Anadeenam". The Government of Tamil Nadu had recognized the petitioner's possession and enjoyment in the year 1994 and ryotwari patta was issued in his favour though the change of classification of land was not effected in the revenue records inspite of the petitioner having paid Land Tax, etc.

5. The respondent issued show cause notice bearing reference in Roc.K1/51540/2001 dated 07.03.2002 to the petitioner. The sum and substance of the show cause notice was that the Assistant Settlement Officer, Tiruvannamalai, had wrongly granted ryotwari patta to the petitioner in respect of Survey No.60/4 measuring an extent of 0.71 acres, at Kolathur Village in Perambur-Purasagalkam Taluk of Chennai District, under Section 11(a) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act 1948. According to the show cause notice, the land was classified as "Nanjai Anadeenam" as there was no claim at that time. Hence, there appeared certain material irregularities in the issuance of patta to the petitioner.

6. Under these circumstances, the petitioner was called upon to put-forth his objection to the proposed cancellation of patta within eight days from the date of receipt of a copy of that order. The petitioner claims to have appeared before the respondent on 28.08.2008 and filed primary objection and also sought for further time for establishing his case.

7. It is contention of the petitioner that the land was in the possession and enjoyment of the petitioner's father since 1945. After his father's demise, claims he has been cultivating on the said land and therefore the suo-motu power exercised by

the respondent for cancellation of patta vide a show cause notice dated 07.03.2002 in Roc.K1/51540/2001 and consequential order passed on 19.07.2002 was not correct.

8.The learned counsel appearing on behalf of the respondent submits that the petitioner was given proper opportunity to establish and submit related document for filling application for issuance of patta as per Section 7 (c) of the Act XXVI/1948 read with G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987.

9.The learned counsel for the respondent filed a detailed counter wherein it has been held that the Assistant Settlement Officer, Tiruvannamalai, by his order dated 19.07.2000, bearing reference in Order No.S.R.18/2000 had given patta irregularly to the petitioner. Under these circumstances, the suo-motu powers exercised by the respondent for cancelling the patta was correct.

10.It is submitted that the Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai, in the impugned order R.Dis(K1)51540/2001, dated 19.08.2002, restored the classification of the land as "Nanjai Anadeenam" at the time of settlement.

11.I have gone through the records of the case.

12.The impugned order though cryptic yet discloses the basis for cancellation of the patta. However, it has been passed without hearing the petitioner. As the patta has already been cancelled vide impugned order dated 19.08.2002, it would be unfair to now direct restoration of the patta after a lapse of 16 years. Further, the writ was filed after a lapse of six years on the impugned order.

13.Therefore, I am of the view that the ends of justice will be met, if the respondent is directed to hear the petitioner afresh in the show cause notice.

14.Needless to state, the respondent shall pass a speaking afresh order in accordance with law.

15.In case, the cancellation of patta is held unjustified after hearing, the respondent shall pass appropriate order for grant of patta to the petitioner.

16.In view of the above observation, the writ petition stands disposed of with a direction to the respondent, to pass a

speaking order within a period of six weeks from the date of communication of this order, after giving the petitioner an opportunity of hearing. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

Arul

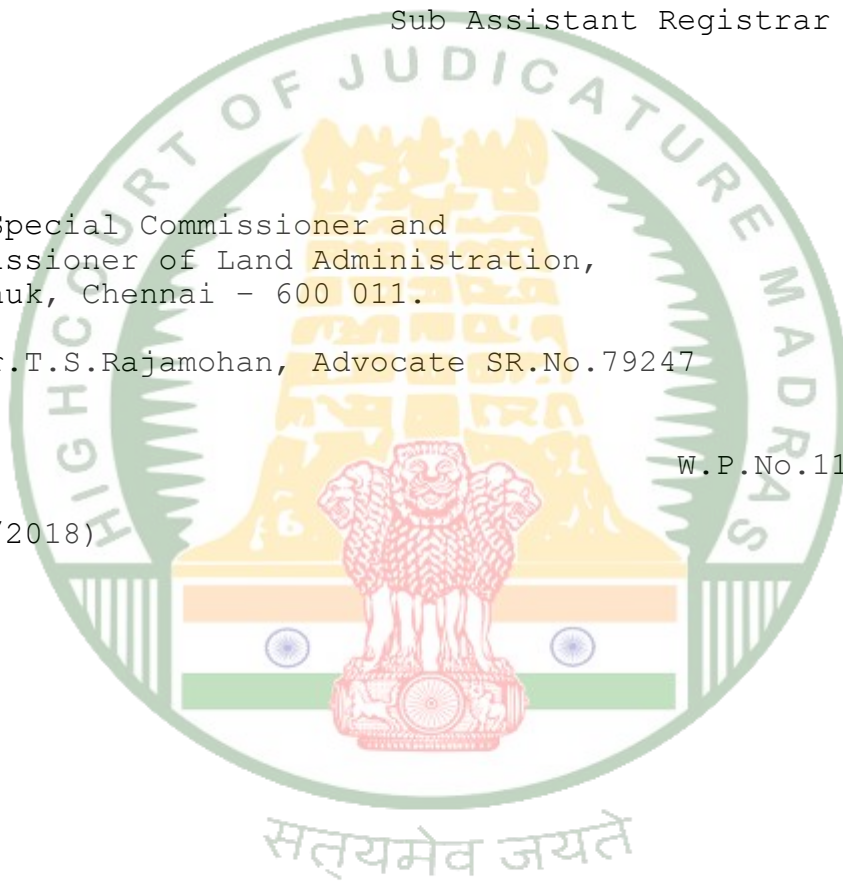
To

The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai - 600 011.

+1cc to Mr.T.S.Rajamohan, Advocate SR.No.79247

W.P.No.11784 of 2008

GMV (03/12/2018)



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