

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.2918 of 2018

Govindappa

..Petitioner

vs

1.The District Revenue Officer,
Collector Office,
Krishnagiri District.

2.The Sub-Collector,
Sub-Collector Office,
Hosur,
Krishnagiri District.

3.The Tahsildar,
Taluk Office,
Shoolagiri, Krishnagiri District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent issued in Pa.Mu.19459/2017-J-2 dated 01.12.2017 quash the same and consequently direct the 1st respondent to delete the erroneous classification made in the Revenue records in respect of lands measuring about 116.04 acres comprised in S.No.70/2 situate at Midithepalli Village, Hosur Taluk, Krishnagiri District and issue patta to the petitioner.

For Petitioner : Mr.R.Bharathkumar

For Respondents : Mr.A.Shrijayanthi
Special Government Pleader

O R D E R

The order impugned dated 01.12.2017 states that the writ petitioner is not entitled for Patta. In respect of the claim made by the writ petitioner for grant of patta, two reasons are provided for rejection of patta. It is contended that the very application submitted before the District Revenue Officer for grant of Patta is time barred, in view of the fact that the same cannot be entertained by the authorities. Secondly, it is stated that the land in question was classified as "Gracing land Poromboke" (Meikkal Poromboke) and therefore, the Patta cannot

be granted on account of the prohibition imposed by the Government.

2. The learned counsel appearing for the petitioner states that the father of the writ petitioner viz., Govindappa, had purchased the said land by way of Sale Deed, registered as Document No.29/1947, in the office of the Sub Registrar, Hosur, for a valid consideration. The father of the writ petitioner was in possession and enjoyment of the said property for many years and thereafter, the writ petitioner inherited the property from his father. When the Settlement Officer called upon the owners of the land who are in occupation, for issue of Ryotwari Patta under the provisions of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari Act, 1963), the father of the writ petitioner appeared before the Settlement Officer and obtained Patta to an extent of 94.95 acres in S.No.70/1 situated at Miditheppali Village. However in respect of the balance extent of 122.25 acres of land, no patta was issued in favour of the father of the writ petitioner. The father of the writ petitioner died interstate on 27.10.1965. Thereafter, the petitioner and his brothers have taken possession of the entire property and enjoying the same.

3. The learned counsel appearing for the petitioner states that the very reasons stated in the impugned order for rejection of the claim of the writ petitioner is erroneous, in view of the fact that there is no time limit for claim of Patta in respect of the land under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari Act, 1963).

4. The rejection of the claim of the writ petitioner, on the ground of delay is not maintainable. In this regard, this Court has also passed an order in WP.No.21328 of 2014 dated 29.04.2016, stating that such application for grant of patta can be entertained by the authorities for adjudication, even after the lapse of time.

5. In respect of the second reason stated in the impugned order, the learned counsel appearing for the petitioner states that the classification made as 'Gracing land Poromboke' is erroneous. Originally, the land described in the writ petition belongs to the Pattadhars and therefore, subsequent classification entered into the Revenue Register was factually incorrect and therefore, the authorities have to reclassify the land and grant Patta in favour of the writ petitioner.

6. The learned Special Government Pleader appearing for the respondents opposed the contention raised on behalf of the writ petitioner by stating that during the Settlement executed before Tamil Nadu Inam Estates (Abolition and conversion into Ryotwari) Act 1963 Section 30/1963, the said paimazh number 53 was

assigned as Survey No.70 which was in turn sub divided as 70/1, 70/2 and 70/3. In addition out of 217.2 acres, the land in S.No.70/1 to an extent of 94.95 acres stands registered in the name of Thiru.Gurrappa, father of the writ petitioner as per records as well as Section 26/1963 by the then Settlement Officer, Salem out of the balance area of the land measuring an extent of 116.4 acres was retained in S.No.70/2 as "Gracing Ground Poramboke" and the remaining 0.61 acres of land in S.No.70/3 stands registered in the name of Thotti Thimmaraya. During the updating Registry Scheme the said land in S.no.70/1 to an extent of 38.42.5 hectares was registered in the name of Muniyappa and 17 others in no way connected to the said land which was rectified in favour of the writ petitioner and some others by the first respondent as per the G.O.(Ms).No.385, Revenue department dated 17.08.2004.

7. The learned Special Government Pleader appearing for the respondents states that the two grounds stated in the impugned order are in accordance with law and there is no infirmity in this regard. Paragraph Nos.5, 7, 8 describe the grounds stated in the impugned order and the same are extracted hereunder:

"5.I humbly submitted that, the writ petitioner has filed a writ petition in WP.NO.2918 of 2018 with a prayer that to grant patta in S.NO.70/2 of an extent of 94.95 acres of Midithepalli Village in Shoolagiri Taluk which was found in the Pre-UDR records, such as the S.No.70 of an extent of 217.2 acres and the same was purchased by Subbaraya Gowdu from Nanjunda Gowdu vide registered Sale Deed No.306/1936 dated 01.12.1936 in turn the same was purchased by Gurrappa S/o Bille Gowdu in the year 1942 from Subbaraya Gowdu vide registered Document No.294/1947. It is submitted that, after a careful verification of the old and new village accounts, the land in S.No.70/2 to an extent of 49.96.5 hectares of land in Midithepalli village was classified as Government Grazing Ground Poramboke in the Updating Registry Scheme and the same was also classified as Grazing Ground Poramboke in the Old Settlement records. In this case, the writ petitioner was the encroahcer on that land for the past years also he does not have any documents as evidence to prove his ownership at the time Settlement. Apart from this there was no record with him to claim the ownership for the above said land which was kept barrent and lying waste for the past few years. Hence, the writ petitioner's grandfathers were not entitled to Ryotwari Patta as per Section 12 of the Tamil nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963.

7. It is submitted that as per Section 12(1) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, had decided after enquiry that,

although the land was considered as a private land of the Iamdar, under second provision to Sec.9 (1) (a) (i) of the above Act the landholder has to be prove cultivated as private land by himself for a continuous period of twelve years immediately before the commencement of the Act i.e. Before 01.04.1960. In this matter the landholder has failed to proved this at that time of settlement, and hence the Settlement Tahsildar determined that the claimant was not entitled to Ryotwari patta and also classified the above said lands as an Anadeenam i.e. Government land.

8. It is submitted that as per Section 12(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, against a decision of the Settlement Officer under sub-section (1), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months from the said date, prefer an appeal to the Tribunal. The first provision to Section 12(2) also specified that the Tribunal may, in its discretion, allow further time, not exceeding six months, for the filing of any such appeal. But, the father of respondents or the respondent's grand father did not prefer any appeal before the Tribunal. As such, they failed to avail the remedy already provided to them under the provisions of the Act, even at the time of very denial of ryotwari patta by the Settlement officer, Salem. He could have very well chosen to exhaust the remedy available to him by way of an appeal before the Tribuna, and also nothing prevented him from doing so. Non-filing of the appeal by the grandfather or the father of the respondents, that too, immediately after the denial of Ryotwari patta by the Settlement Officer, Salem and classification of the land as an Government Gracing Ground proamboke land in 1961 clearly proves that the said better title and the possession of the land were not actually held by him. It is submitted that as per the G.O.Ms.No.589, Commercial Taxes and Religious Endowments Department dated 14.05.1975 the time limit for preferring application outside the scope of the Abolition Act 1948 under G.O.Ms.No.1300, Revenue Department dated 30.04.1971 and further the government granted extension of time upto 31.03.1977 in G.O.Ms.No.1889, Commercial Taxes and Religious Endowments Department, dated 24.12.1976. Thereafter no extension of time given by the Government.

8. It is respectfully submitted that Sec.71 of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, specifies as submitted below:-

(i) Any order passed by any officer, the Government or other authority or any decision of the Tribunal or

the Special Appellate Tribunal under this Act in respect of matters to be determined for the purposes of this Act shall, subject only to any appeal or revision provided by or under this Act, be final.

(ii) No such order or decision shall be liable to be questioned in any Court of law.''

8. This Court is of an opinion that the writ petitioner has raised certain factual disputes in respect of the entries made in the Revenue Register. The reclassification done long back in Revenue Records cannot be adjudicated in a writ proceedings. This apart, the writ petitioner claims that his father was an original Pattadhar in respect of the land described in the present writ petition. Thus, such complex facts and circumstances narrated before this Court in the present writ petition cannot be adjudicated nor finding can be arrived in this regard by this Court. The writ petitioner has to adjudicate these aspects by producing all the original documents and by adducing evidences before the competent Civil Court of law in this regard in order to establish his title, in respect of the property. Such an exercise cannot be done in a writ proceedings under Article 226 of the Constitution of India.

9. Under these circumstances, it is left open to the writ petitioner to approach the Competent Civil Court of law for adjudication of his title, ownership or possession.

10. It is to be taken note of that, if the land belongs to the Government and it is classified as 'Poromboke', then the competent authorities are bound to protect the land, which is classified as Poromboke. It is needless to state that all such Government lands or public properties are to be protected by the competent authorities without any lacuna. The District Collector in this regard has to conduct periodical review meetings to identify all such encroachments within his jurisdiction and initiate appropriate action for eviction of such encroachments by following the procedures contemplated under the Tamil Nadu Land Encroachments Act, 1905. In the event of any negligence or dereliction on duty, on the part of the revenue officials or other department officials, then the District Collector is bound to initiate appropriate proceedings including initiation of disciplinary proceedings against all such officials. Thus, it is duty mandatory on the part of the District Administration to ensure that all such Government Poromboke lands are protected in accordance with law. As far as the present writ petition is concerned, it is described that the portion of the land is classified as Gracing Land Poromboke.

11. If such is the fact, then the encroachments in such lands are to be evicted and the land must be put for the usage of the public at large and in the interest of the public. This

being the principles to be followed, this Court is of an opinion that if the writ petitioner claims that he is the owner of the property, then he is at liberty to approach the competent civil Court of law to establish his civil right and if the authorities found as per the classification, that it is the Government Poromboke lands, then they are at liberty to evict all such encroachments in the Government lands.

12. In this view of the matter, no further adjudication needs to be undertaken in respect of the grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sk/mkn

To

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- 3.The Tahsildar,
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Shoolagiri, Krishnagiri District.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.63177

W.P.No.2918 of 2018

NRL(CO)

rrs 05/10/2018

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