

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.08.2019

Pronounced on : 14.10.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No. 23790 of 2010
and M.P.No.1 of 2010

Ravisivam Muthuraja

...Petitioner

Vs

The Commissioner & Director of Settlement,
Government of Tamil Nadu,
Ezhilakam,
Chepauk,
Chennai 600 005.

...Respondent

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to quash the order of the respondent herein made in Na.Ka.7651/2010, dated 30.07.2010 after calling for the records, and direct the respondent herein to issue patta to the petitioner as per the application through counsel dated 17.01.2005 and as per the provisions of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948.

For Petitioner : Mr.B.Ramamoorthy

For Respondent : Mr.I.Sathish, AGP

ORDER

The prayer in the Writ Petition is to quash the order of the respondent dated 30.07.2010 made in Na.Ka.II/7651/2010, whereby the request of the petitioner for grant of patta was rejected.

2. The case of the petitioner is that the land measuring an extent of 3.79.0 hectares in Survey No.80 in Kalanivasal Village, Peravurani Taluk, Thanjavur District was given to his great grand father Muthu Gurukkal as inam in the years 1828 and 1829. The said Muthu Gurukkal had only one son by name Panchapakesa Gurukkal and the said Panchapakesa Gurukkal had one son by name Natesa Gurukkal. The said Natesa Gurukkal had only son by name Admanatha Gurukkal, the father of the petitioner. The entire extent of land referred above was the personal grant of his predecessors-in-title and the same was

treated as private land of the family for the past 80 years. It is further stated that they are in continuous possession and enjoyment of the said land and as on today, the entire extent is a coconut thope.

3. The petitioner would allege that the Settlement Officer without conducting proper inspection and enquiry in accordance with the provisions of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, wrongly and illegally classified the land as natham in the revenue records and the application of the petitioner for grant of patta was rejected in violation of the provisions of the Act and the earlier orders of this Court.

4. A detailed counter has been filed by the respondent stating that Kalanivasal Village, Peravurani Taluk, Thanjavur District was taken over by the Government as per the notification published under Section 1 (4) of the Act and the Ryotwari Settlement was introduced in the year 1951. During the operation of settlement, the land in dispute has been classified and registered as "natham-sarkar-poramboke" in the revenue records. The said order has become final as per Section 64 (c) of the Act as no appeal or revision was preferred questioning the order. It is further stated that the Government by G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, dated 29.06.1987, extended time limit for preferring appeal, which was also not filed by the petitioner.

5. The counter further proceeds that in the year 1988, the Government had ordered to introduce natham settlement vide notification published in G.O.Ms.No.1971, Commercial Taxes and Religious Endowment Department, dated 14.10.1988 in order to grant Natham Pattas to the occupants over the Government Natham Poramboke lands. This Scheme was only a Welfare Scheme to grant patta to the house sites in the Villages, who had been in possession for many years. After a lapse of 50 years, the petitioner presented a petition before the respondent on 03.01.1994 with a request to grant patta in the said land. Since the land in dispute had been registered as natham as per SF7 prepared during the introduction of Ryotwari Settlement under the Tamil Nadu Act XXVI of 1948, the respondent rejected the application. According to the respondent, the grant of patta under the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act and the natham settlement are distinct and different. The petitioner, during the enquiry has not produced any documentary evidence to prove the claim made by him that the land was granted to his predecessors as grant and that cultivation has been done by him / his predecessor in title prior to the settlement. Hence, the petitioner is not entitled for any relief as claimed by him.

6. In reply affidavit, which runs up to 9 pages, the petitioner reiterated his case stated in the Writ Petition.

It is also stated that the Revenue Divisional Officer, Pattukottai initiated proceedings under 145 of Cr.P.C and granted interim stay against one Kannaiyan, Ravi and others not to interfere with the possession and enjoyment of the petitioner till the respondent passes final order.

7. Mr.B.Ramamoorthy, learned counsel for the petitioner would urge that the old paimash for Kalanivasal Village dated 12.05.1828 would establish that the land in question was given to the great grand father of the petitioner as inam, and it was under occupation and enjoyment of the petitioner and his predecessors, however, during the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, the land was wrongly classified as natham. According to the learned counsel, admittedly, there are grownup coconut trees in the land and hence, it is not suitable for habitation of the Village people. Hence, the petitioner is entitled to have patta for the land.

8. Per contra, Mr.I. Sathish, learned Special Government Pleader appearing on behalf of the respondent would contend that the entire village of Kalanivasal Village was taken over by the Government with a view to abolish all the intermediaries that existed between the Government and the ryots in the estate and after due enquiry, the Settlement Tahsildar classified the land as "Natham Sarkar Poramboke". It is further contended that the order of the Settlement Tahsildar had become final and after lapse of 60 years, the petitioner approached the respondent for re-classification and hence, the Writ Petition is liable to be dismissed on the sole ground of laches.

9. Heard rival submissions and perused the materials available on record.

10. In the instant case, it is not in dispute that Kalanivasal Village in Peravurani Taluk was notified and taken over by the Government on 01.10.1995 under Tamil Nadu Act XXVI of 1948. It is equally not disputed that the land was classified as natham poramboke by the Settlement Officer in the year 1951. The petitioner claims right over the property on the basis of the old paimash for Kalanivasal Village dated 12.05.1828 and 12.05.1829.

11. It is the further case of the petitioner that his predecessors had been in continuous possession and enjoyment of the same and after the demise of his father, the land is under the occupation of his legal heirs. Perusal of the records would reveal that no documentary evidence was produced by the petitioner neither before the respondent nor before this Court to substantiate his case. In the impugned order, it has been specifically observed that the petitioner has not produced any documentary evidence including kist to prove the case of the petitioner.

12. The next question that arises for consideration is whether the petitioner is entitled for patta after a lapse of 60 years. This issue is no longer res-integra as the Division Bench of this Court, in the case of Nawab Wallajah Sahib Pallivasal vs. the Commissioner of Land Administration/Board of Revenue and others reported in MANU/TN/1662/2019, in which one of us was a party (Justice K.KALYANASUNDARAM), has held that the patta cannot be issued after a lapse of 2 or 3 decades. The decision would run thus:-

"26. In AIR 2009 (SC) Suppl. 241 and MANU/SC/0752/2014 : AIR 2015 (SC) 102 (Supra), the Hon'ble Apex Court set aside the orders passed in exercise of the suo motu judicial power after lapse of 17 and 13 years respectively. The same view was taken by the Supreme Court in the latest decision reported in 2018 SAR Civil 360. The Rajasthan High Court in MANU/RH/1226/2015: AIR 2015 Rajasthan 179 (Supra) has gone to the extent of holding that even if the fraud is alleged, the power must not be exercised after unreasonable period, such as after several decades. In similar circumstances, the Division Bench of this Court in MANU/TN/0147/2016 : 2016 (2) L.w. 45 (Supra), rejected the prayer sought for grant of Patta after six decades. In the matter on hand, indisputably the appellant challenges issuance of patta after a lapse of 54 years.

27. The learned Single Judge by following the principles laid down in the decisions of the Hon'ble Supreme Court and after analysing the relevant provisions of the Wakf Act, dismissed the writ petition. Taking note of the above facts, we find no ground to interfere with the impugned judgment. In that view, the writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

13. Considering the above facts, in my considered opinion that the decision would squarely apply to the case one hand. For the foregoing reasons, I find no valid ground to set aside the order impugned in this Writ Petition. In fine, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CO)

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Sub-Assistant Registrar

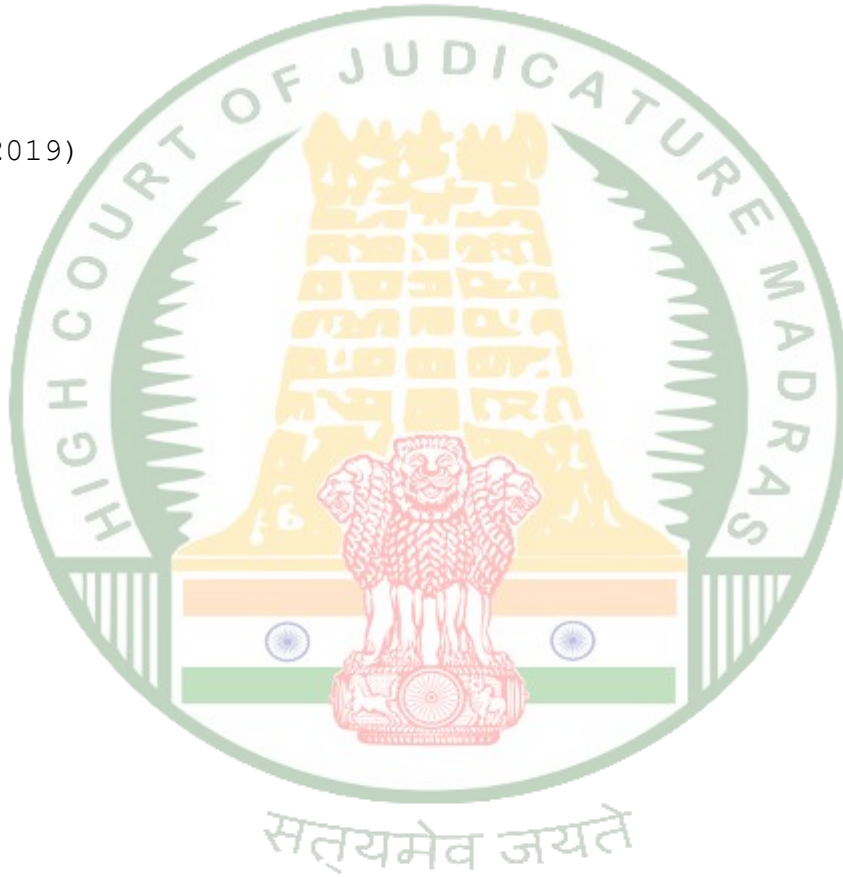
pvs
To

The Commissioner & Director of Settlement,
Government of Tamil Nadu,
Ezhilakam,
Chepauk,
Chennai 600 005.

+1 CC to Mr.B.Ramamoorthy, Advocate sr 85682.

W.P.No. 23790 of 2010

PA (CO)
SP(11/11/2019)



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