

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.5636 of 2013 and M.P.No.1 of 2013

E.Vinayagam

.. Petitioner

-vs-

1.The Principal Secretary/Commissioner
of Land Survey and Planning,
Chennai-5.

2.The Assistant Land Revenue Planning
Officer, Thiruvannamalai,
Thiruvannamalai District.

3.The District Collector,
Tiruvalluvar District.

4.The Thasildhar,
Madavaram Taluk,
Thiruvalluvar District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in Proceedings Na.Ka.I 1/6071/05 dated 16.10.2012 on the file of the first respondent and quash the same as illegal, arbitrary and against law and directing the respondents to restore the Patta No.41 in the name of the petitioner in which from cancellation pursuant to impugned order.

For Petitioner : Ms.D.Malarvizhi

For Respondents : Mrs.P.Rajalakshmi, AGP

ORDER

Mr.E.Vinayagam, S/o.Etti Naicker has filed this writ petition challenging the impugned order dated 16.10.2012 passed by the Principal Secretary-cum-Commissioner of Land Survey and Planning, the 1st respondent herein cancelling the patta issued by the Assistant Settlement Officer in favour of the petitioner and restoring the land as 'Anadheenam'.

2. Learned Counsel appearing for the petitioner submitted that the land measuring to an extent of 0.37.0 hectares i.e. 94 cents in Survey No.78/17, previously Survey No.124/7, Manali Village, Ambattur Taluk, Thiruvallur District, was originally under the possession and usage of the petitioner's father, namely, Etti Naicker. Even during his life time itself, the petitioner was in joint possession of the said land along with his father. However, after the demise of his father in 1976, he became a single occupant and continues to be in possession and enjoyment of the same. As his father failed to apply for patta, he applied for issuance of patta under the Inam Abolition Act. Subsequently, when the Government acquired the land by Notification dated 09.06.1965, it has been clearly mentioned that his father Etti Naicker was in possession of Survey Nos.124/17 and 124/7, however, the said lands in Manali Village were acquired for the purpose of oil refineries. But no compensation was paid for the lands either to his father or to him.

3. The learned Counsel for the petitioner further submitted that in the year 1981, when the Special Thasildar-Land Acquisition has sent a notice regarding acquisition of land in the name of the petitioner's father, after his death, it was handed over to him. Later, he came to know that the said land was noted as 'Anatheenam Dry Land'. Therefore, he approached the revenue authorities for issuance of patta in his name by giving representations to various authorities, namely, the Assistant Land Revenue Planning Officer, Thiruvannamalai and the said officer after personally inspecting the land found that the possession of the land was not taken over by the oil refinery authorities. On this score, his representation for issuance of patta was considered and forwarded to the Thasildar, Ambattur and finally patta was granted in his name bearing Patta No.670.

4. The learned Counsel for the petitioner also submitted that later on, a Notice dated 23.09.2005 bearing No.Ne.Vu.A.6071/2005 intimating that the patta issued in his name has to be reconsidered was issued and thereupon, he was called upon to submit his explanation as to why the patta issued in his name should not be cancelled. As it was a Deepavali time, there was a heavy rainfall, the petitioner gave a detailed explanation only on 21.11.2005 justifying the grant of patta issued in his name. But without considering the same, the impugned order has been passed. As per the Inam Abolition Act, patta has to be issued for the persons who are in possession of the lands at the time of the Act coming into force. Besides it is

very evident from the Government Notification under Section 6 of the Land Acquisition Act that the petitioner's father was in possession of the land for a long time, due to ignorance, his father has failed to apply for patta as per the Inam Abolition Act. After the death of his father, the petitioner has taken steps for getting patta on the basis of the application to the Assistant Land Revenue Planning Officer, Thiruvannamalai. Therefore, according to the petitioner, when the revenue authorities also based on the order passed by the Assistant Settlement Officer has issued the patta, the same ought not to have been questioned.

5. A detailed counter affidavit has been filed by the 1st respondent.

6. Learned Additional Government Pleader in support of the impugned order contended that it is the own case of the petitioner that neither his father nor the petitioner was the owner of the land inasmuch as they were only cultivating tenants. This could also be seen from the grounds of appeal filed by the petitioner's landlord before the Inam Tribunal (Subordinate Judge, Chengleput) in CMA.No.87/1977 in which the name of the petitioner's father was shown as 2nd respondent. But the Inam Tribunal has rejected the appeal filed by the petitioner's landlord by order dated 31.7.1978. Therefore, when the appeal filed by the original land owners was rejected on the ground that they are not entitled to get patta, the petitioner and his father who are cultivating tenants under their landlord has no right or justification to approach either the Assistant Settlement Officer or revenue authorities for getting any order relating to the grant of patta. When the petitioner has not even made proper application within a stipulated time before the Assistant Settlement Officer under the Inam Abolition Act, after the land in question was classified and restored as Anadeenam, without even challenging the said proceedings, the present Writ Petition cannot be entertained. 7. The learned Additional Government Pleader further contended that moreover, when the Manali Village in present Madavaram Taluk of present Chennai District was earlier taken over by the Government under the provisions of the Tamil Nadu Inam Estates (Abolition and Convention into Ryotwari) Act, 1963 vide Notification published in G.O.No.3265 dated 21.11.1966 and ryotwari settlement introduced in the year 1382 fasli classifying the land-in-question as Government Wet -Anadheenam as per Section 3(b) of the said act, the said land was vested with the Government. Therefore, if any one has aggrieved against the said order with regard to the the classification, the aggrieved person could have filed an appeal before the Inam Abolition Tribunal, as per Section 12(2) of the said Act within three months and if no appeal filed within the said period, the order passed would attain

its finality as per Section 71(1) of the said Act and this cannot be questioned before any court as per Section 71(2) of the said Act. Ignoring this provision, when an application was filed by the petitioner before the Assistant Settlement Officer, Tiruvannamalai, while entertaining the said application dated 16.5.2000, granted patta under Section 11(1)(i) of the Act in his Proceedings in K.Dis.B2-876/2000 dated 27.6.2000. Subsequently, when that was brought to the notice of the Special Commissioner and Director of Survey and Settlement, he issued a Show Cause Notice to the petitioner herein dated 06.10.2012 to give his explanation as to why the order of the Assistant Settlement Officer, Tiruvannamalai dated 27.6.2000 should not be cancelled.

8. Heard the rival submissions made on either side and I have also perused the materials available on record carefully.

9. At the outset, the facts that the land in question was already classified as Government Anandheenam and a notification was also published in G.O.No.3265 dated 21.11.1966, consequently, the Assistant Settlement Officer, Tiruvannamalai has no authority and the Special Commissioner and Director of Survey and Settlement, issued a Show Cause Notice to the petitioner herein dated 06.10.2012 in Rc.H1/6071/05 asking the petitioner to give his explanation as to why the order passed by the Assistant Settlement Officer dated 27.6.2000 should not be cancelled and an explanation also has been given by the petitioner on 21.11.2005 are not in dispute. Further, the facts that when the matter was under consideration, the petitioner has come to this Court with the Writ Petition in W.P.No.16912 of 2011 and this Court by order dated 26.7.2011 directed the Special Commissioner and Director of Survey and Settlement to consider the explanation given by the petitioner and pass appropriate orders within a period of three months from the date of receipt of that order are also not in dispute. Accordingly, it appears that the Special Commissioner and Director of Survey and Settlement passed an order in his Proceedings in R.C.H1/6071/2005 dated 06.10.2012 giving justification that the Assistant Settlement Officer has no power or jurisdiction to entertain the belated application filed on 16.5.2000, when the G.O.No.3265 dated 21.11.1966 introducing the Ryotwari Settlement introduced in the year 1382 fasli attained finality as per Section 71(1) of the Act. Moreover, when the entire Manali Village was taken over by the Government under the provisions of the Tamil Nadu Inam Estates (Abolition and Convention into Ryotwari) Act, 1963 vide Notification published in G.O.No.3265 dated 21.11.1966 and Ryotwari settlement introduced in the year 1382 fasli, approximately, the petitioner being a cultivating tenant,

has no right to move any application seeking grant of patta, more particularly, when the similar claim made by his landlord was considered and rejected by both the Assistant Settlement Officer and also the Inam Tribunal. In view of all the above, this Court finds no merit in the Writ Petition.

10. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

tsi
To

- 1.The Principal Secretary/Commissioner
of Land Survey and Planning,
Chennai-5.
- 2.The Assistant Land Revenue Planning
Officer, Thiruvannamalai,
Tiruvannamalai District.
- 3.The District Collector,
Tiruvalluvar District.
- 4.The Thasildhar,
Madavaram Taluk,
Tiruvalluvar District.

+1 cc to Government Pleader Sr.No. 97586

+1cc to Ms.D.Malarvizhi , Advocate SR.No. 97659

W.P. No.5636 of 2013

A.SK(30/01/2020)

WEB COPY