



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.11363 of 2010
and
M.P. (MD)No.1 of 2011

S.U.Selvanathan

... Petitioner

vs.

The Government of Tamil Nadu,
represented by its Principal Secretary,
Revenue Department,
Secretariat, Chennai -9.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in connection with the impugned order in G.O.(2D) No.322, Revenue Ser2(1) Department, dated 19.06.2009 and quash the same and to direct the respondent to grant all the service and monetary benefit, which the petitioner is legally entitled to within a stipulated time period.

For Petitioner :Mr.M.Ravi
For Respondent :Mr.M.Jeyakumar
Additional Government Pleader

ORDER

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus, to quash the order of respondent, vide, G.O.(2D) No.322, Revenue Ser2(1) Department, dated 19.06.2009 and to direct the respondent to grant service and monetary benefits to the petitioner. By the impugned order, a punishment of compulsory retirement was given to the petitioner.

2.The petitioner was working as a Deputy Inspector of Survey at Andipatti and a disciplinary proceedings was initiated against him under Section 17(b). The charge memo, dated 25.01.2002, indicate the following charges against the petitioner:

"Charge No.1. That Thiru.S.U.Selvanatham, while acting as Deputy Inspector of Survey from 14.6.96 onwards under the instructions of the then Tahsildar, Andipatti and with the assistance of Thiru.V.Muniasamy, Firka Surveyor,



Mayiladumparai prepared false sub division records, 'B' sketches to an extent of 2877 Hectares of forest land in Survey No.280 of Meghamalai village, Andipatty Taluk with malafide intention for the grant of patta to the legal heir of Late Kambal @ Veeriah Chettiar without conducting actual survey of the suit land. Supplementary survey was not conducted by actual field inspection but done with reference to the four boundaries of the field. Thus he committed malpractice and irregularities in the preparation of sub division records, 'B' sketch and carried over the changes in the village and Taluk accounts within 8 days for a vast extent of an area of 28.77.03.0 Hec. In S.No.280 of Megamalai village without conducting actual survey of field inspection.

2.CHARGE No.2:

That the AO has falsely certified in the 'B' sketches in S.No.280 (new S.No.1425 & 1426) on 14.8.06 that the survey work was pre-scrutinized by him and area was checked knowing fully well that the tentative area arrived on the basis of topo sketches prepared during 12/95 was adopted in sub division records.

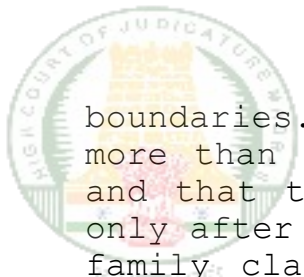
CHARGE No.3:

Thus he acted as an instrument in the heavy loss to Government."

3.From the statement of allegations regarding misconduct, it reveals the following facts:

3.1.Megamalai Village, which was a surveyed Hill village notified under G.O.Ms.No.3157, dated 09.12.1950 to be taken over under the provisions of Estates (Abolition and Conversion into Ryotwari) Act, namely, Act 26 of 1948 and vast extent of land was also declared as reserved land under Section 26 of Forest Act, 1982. During the course of survey and settlement, an extent of 59,955 Acres in S.No.280 was treated as forest poramboke. After the entire land was taken over by the Government under the Act 26 of 1948, the legal heirs of one Kambal @ Veeriah Chettiar claimed ryotwari patta, for the surveyed portion of Plot No.36 and unsurveyed portion of Plot No.36.

3.2.The Assistant Settlement Officer, Madurai, in his letter, dated 08.09.1995, requested the Assistant Director of Survey and Land Records, Madurai, to conduct supplementary survey in respect of Plot No.36, which extends to S.No.280 in Megamalai Village. The Assistant Settlement Officer, by his further letter, dated 28.09.1995 requested the Tahsildar, Andipatti, to effect supplementary survey in S.No.280, which were handed over to the Assistant Settlement Officer, Madurai, on 04.12.1995. The said supplementary survey was undertaken and in the report of survey, it is learnt that the land in S.No.36 is situated within four



boundaries. Since the entire Megamalai village covers an extent of more than 24669 Hectares, which was held by the Revenue Department and that the enjoyment and ownership of above land can be decided only after going through all the relevant records. Since particular family claims ryotwari patta in respect of 2877.03.0 Hectares of land, the ownership and possession of land by persons, who are claiming ryotwari patta or by encroachers, could be ascertained only by actual measurements of the land.

3.3.It was in the said circumstances, the petitioner was asked to conduct supplementary survey by actual field inspection, to protect the interest of the Government. It is in this context, the Assistant Director of Survey and Land Records, after perusing survey records submitted by the petitioner and his team, formed an opinion that the sub division records were prepared by the petitioner and others were defective and without an actual field inspection. Relying upon the survey and sub division records, the petitioner and his team mechanically followed and did some paper work without any preparation of sub division records, 'B' sketch and completed the entire scrutiny of sub division work on field within eight days for a vast extent of 2877.03.0 Hectares in S.No.280 in Meghamalai Village. It is in the above said context, charge memo was issued to the petitioner.

4.Very surprisingly, the petitioner himself, in paragraph 5 of the affidavit filed in support of this petition, has stated that he took charge of Deputy Inspector of Survey at Andipatti Taluk only on 14.06.1996 and that the Assistant Settlement Officer, Madurai, along with Tahsildar, inspected the land for the purpose of giving patta to an extent of 2877 Hectares and that the Tahsildar gave records to the petitioner for scrutiny. It is admitted by the petitioner that he did some table work and verify whether the extent was correctly given in the map. It is the specific case of the petitioner that it is not necessary to once again inspect the land for scrutiny, as the property had already been inspected by the Assistant Settlement Officer and Tahsildar.

5.The explanation submitted by the petitioner to the charges also would indicate that the petitioner has come forward with an explanation that scrutiny of records was done by him without any field inspection. It is surprising to note that the petitioner has consistently taken a stand that there was no requirements of law or Rule to inspect the lands, when a direction was to scrutinise the sub division. When a private individual claims ownership/ryotwari patta in respect of a huge land in a hill area and the previous survey records does not indicate a field inspection and survey but fixing of boundary without actual measurement, it is expected from the survey team to conduct field survey and measure the land irrespective of the sub division records. Scrutiny in this context does not mean task work. When the previous records does not reveal



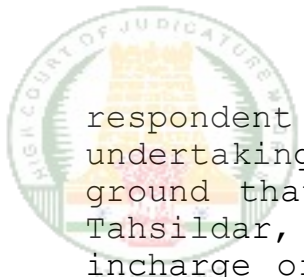
anything, but, actual measurement and fixing boundaries with reference to actual measurements from the survey points.

6.It is admitted that the entire extent of land lies in a hill area and therefore, the original survey was conducted with the help of theodolite machine after fixing several stations. Identification of theodolite stations is important and actual measurement is possible only by fixing and identifying theodolite stations to verify whether the survey conducted in 1995 was proper. The petitioner has also admitted his dereliction of duty in unequivocal terms. The contention of the petitioner that the charges levelled against him are vague, self contrary, imaginative and overstretched have no substance, having regard to the factual background.

7.One of the submissions of the learned Counsel for the petitioner is that the charges and the conclusion of the respondent are based on the letter submitted by the Assistant Director of Survey and Land Records and that the whole proceedings without furnishing a copy of letter to the petitioner is invalid. The Assistant Director of Survey and Land Records has only given a report to the effect that the survey conducted by the petitioner and his team was not proper and without a field inspection. When this fact is candidly admitted by the petitioner, there is no merit in the said ground. In the present case, the Assistant Settlement Officer is also involved, as the records would indicate that the earlier survey and sub division proceedings were not completed by following procedure. This Court is unable to find the actual charge, that was framed against the Assistant Settlement Officer, Madurai.

8.The learned Counsel for the petitioner would contend that the petitioner's co-delinquent, one Mr.Soundarapandian, who was the then Assistant Settlement Officer, was also given a charge memo under Rule 9(2) of the Tamil Nadu Pension Rules 1978, and that the Enquiry Officer, in his case, has given a report, as if the charges against him are not proved. Though a second show cause notice was issued, deviating from the findings of the Enquiry Officer, the Writ Petition filed by the said Soundarapandian in W.P.(MD)No.10682 of 2007 was allowed by this Court. Since the disciplinary proceedings was dropped as against Assistant Settlement Officer, it is submitted that the petitioner is also entitled to be relieved all the charges. The charge memo issued to the petitioner is distinct and the petitioner alone has to conduct survey and submit his report. The charges against the Assistant Settlement Officer is not before this Court and therefore, this Court is unable to appreciate the factual basis for the legal submission of the learned Counsel for the petitioner.

9.In the affidavit filed in support of this petition, the petitioner has pleaded ignorance and blame the respondent for not framing charges, as if the Enquiry Officer and the



respondent have acted without knowing the role of petitioner in undertaking survey and sub division. The petitioner has raised a ground that no action was initiated against his superior, namely, Tahsildar, or other persons, who were involved. The petitioner was incharge of survey and he knows how to scrutinise the sub division records on ground. When the charges against the petitioner, are in fact admitted, there is no scope for entertaining the plea, as that the petitioner's superiors were not taken to task. This Court is able to see that the Enquiry Officer has relied upon several documents and the documents would clearly show the background on which the petitioner was directed to undertake re-survey and scrutinise the survey and sub-division records by field inspection. The conclusion of the Enquiry Officer regarding the charges cannot be faulted, as they are supported by reasons.

10.The respondent considered the enquiry report and gave an opportunity to the petitioner to make his further representation or objection to the enquiry report. Hence, this Court has no reason to interfere with the punishment of compulsory retirement, having regard to the admitted facts. Hence, this Writ Petition is dismissed and the order passed by the respondent, vide G.O.(2D) No.322, Revenue Ser2(1) Department, dated 19.06.2009 is confirmed. The respondent is directed to resurvey the entire field, for which Ryotwari patta is granted to individual and to fix permanent boundaries by deputing an Officer, not below the rank of Assistant Director of Survey and Land Records with a team of surveyors, who have rich experience in surveying hill villages, if it is not done so far. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal Secretary,
The Government of Tamil Nadu,
Revenue Department,
Secretariat, Chennai -9.

+1 CC to M/s.M. RAVI, Advocate (SR-99786[F] dated 20/11/2019)
+1 CC to M/s.Special Government Pleader (SR-100355[F] 21/11/2019)

W.P. (MD) No.11363 of 2010
20.11.2019

cmr

<https://hccs.courts.gov.in/cases/5P4C>