



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 19.03.2019
DELIVERED ON : 10.06.2019

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CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P. (MD) No.12245 of 2015
and
MP (MD) No.2 of 2015 and WMP (MD) No.3058 of 2017

Uma Maheswari

... Petitioner

Vs.

1.The Additional Chief Secretary /
Commissioner of Land
Administration, Chepauk,
Chennai - 600 005.

2.The District Revenue Officer,
Madurai District, Madurai.

3.The Revenue Divisional Officer,
Usilampatti, Madurai District.

4.The Tahsildar, Tirumangalam Taluk,
Madurai District.

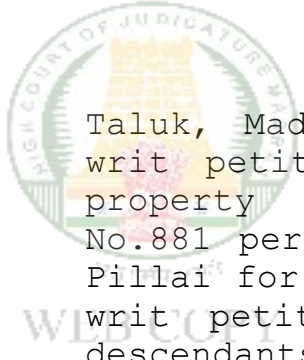
... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the Impugned proceedings issued by the 1st Respondent dated 25.05.2015 made in D.Dis No. K4/7447/2014 and confirming the Impugned Proceedings passed by the 2nd Respondent dated 26.07.2013 made in Na.Ka.No.8283/13/G5 and further confirmed the Impugned memorandum dated 30.01.2013 made in Mu.Mu. No.5329/2012/A2 and quash the said proceedings and consequently direct the respondents herein to change the nature of classification of land from assessed waste dry to Thanneer pandam Manipam" and issue Ryothwari Patta to the petitioner in respect of the land in Survey No.50 of an extent of 9.33 acres situated in Tharmathupatti Village, Usilampatti Panchayat Thirumangalam Taluk, Madurai District.

For Petitioner : Mr.T.S.R.Venkatramana
For Respondents : Mr.M.Rajarajan,
Government Advocate

ORDER

The writ petitioner's case is that the property measuring 9.33 acres in Survey No.50 of Tharmathupatti Village, Tirumangalam

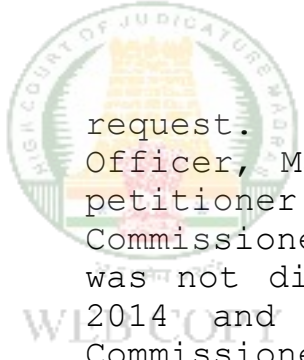


Taluk, Madurai District was owned by one Palani Pandaram. The writ petitioner claims that he was her forefather. The said property was classified as Inam Dry and the Inam Title Deed No.881 pertains to it. It was given to Kuppusamy @ Thalai Muthu Pillai for rendering "Thanneer Pandhal Service". According to the writ petitioner, the said service is being continued by the descendants even till date. The writ petitioner has enclosed the extracts from the Inam Fair Register dating back to a century and beyond. On the strength of the said extracts, she would contend that Palani Pandaram was the original grantee and that the grant is still in force and that it has not been revoked till date.

2. When the Inam Abolition Laws came into force and a mechanism was put in place for conferring Ryotwari patta to eligible persons, the petitioner's forefathers failed to apply. But, failure to apply for ryotwari patta under Tamil Nadu Act 30 of 1963 will not extinguish the writ petitioner's right. The learned counsel appearing for the writ petitioner drew my attention to G.O (Ms) No.1300, Revenue Department dated 30.04.1971 which provided for making of application by those who did not apply for ryotwari patta in time under the 1948 Act. The Government thus enabled grant of patta outside the scope of the Act. But, the lands erroneously came to be classified as assessed waste dry and Government Poramboke. While the writ petitioner would claim that this mistake occurred when updating the Register, the authorities would claim that even before UDR, the land in question came to be classified only as assessed waste dry and Sarkar Poramboke.

3. Be that as it may, writ petitioner submitted a representation dated 11.03.2011 calling for issuance of ryotwari patta in favour of the descendants of the original grantee. After submitting the said representation, the writ petitioner filed WP (MD) No.4687 of 2011 and by order dated 06.01.2012, a direction was given for disposing of the writ petitioner's representation. In fact, the Tahsildar, Thirumangalam was mandated to dispose of the said representation dated 11.03.2011. Pursuant to the said direction, the Tahsildar, Thirumangalam by proceedings dated 13.07.2012 recommended to the Revenue Divisional Officer, Usilampatti for classifying a portion of the land in question. This was because, during the intervening period, the local body had planted a number of trees and a cart track had also been formed. Therefore, the said divided 50/2 alone was to be changed in favour of Mrs. Uma Maheswari, the petitioner herein. It was further stipulated in the said recommendatory proceedings that undertaking should be obtained from Ms. Uma Maheswari that the lands in question will not be alienated or otherwise encumbered.

<https://hcservices.courts.gov.in/hcservices/> recommendation of the Tahsildar, Thirumangalam was not acceptable to the Revenue Divisional Officer, Usilampatti who vide proceedings dated 30.01.2013 rejected the writ petitioner's



request. A revision was filed before the District Revenue Officer, Madurai who by order dated 26.07.2013 dismissed the writ petitioner's revision. The matter ultimately went before the Commissioner of Land Administration, Chepauk, Chennai. Since it was not disposed of, the writ petitioner filed WP(MD)No.11420 of 2014 and this Court by order dated 14.07.2014 directed the Commissioner of Land Administration, Chepauk, Chennai to expedite the appeal filed by the writ petitioner herein. By the impugned order dated 25.05.2015, the Commissioner of Land Administration, Chennai dismissed the writ petitioner's appeal. The same is put to challenge in this writ petition.

5. Heard the learned counsel on either side.

6. The learned counsel appearing for the writ petitioner drew my attention to the decision of the Hon'ble Division Bench reported in 100 L.W 181 (DB) (Angappa Gounder vs. Sivamalai Gounder) in which it was held that insofar as Minor inams are concerned, the vesting is notional and does not affect the Kudiwaram right lawfully enjoyed or acquired as laid down in Act 30 of 1963. The vesting contemplated under Act 30 of 1963 is only to enable the Government to effect a ryotwari settlement and not to extinguish the existing rights in an inam land.

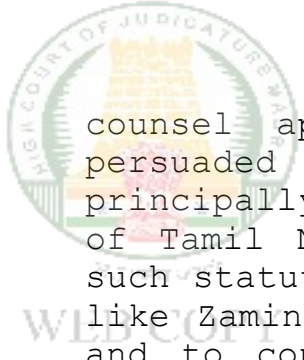
7. The learned counsel for the writ petitioner also drew my attention to an unreported decision made in WP Nos.22216 and 22217 of 2011, dated 17.04.2012. In the said decision, an earlier order had been refer to. It reads as under :

"3. In support of this contention, the learned counsel for the petitioners placed reliance on the Judgment of this Court in WP.No.4980 of 2012 decided on 09.03.2012 (Model Education Society vs. The Commissioner of Land Administration, Chepauk, Chennai - 5), it has been laid down as under :

"I find that the rejection has been made only on the ground that the application has been filed beyond the time. In this connection, I refer to the order passed by this Court on 21.02.2012 in WP.No.3989 of 2012, wherein this Court had on occasion to deal with a similar order of rejection and set aside the order, after finding that the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, does not prescribe any time limit for filing a claim petition for the purpose of issuance of patta. Therefore, when the application filed by the petitioner herein for patta has been rejected as it is time barred, the order suffers from paten irregularity. Further, the order of rejection has

passed without hearing the petitioner concerned."

8. No doubt, the submissions made by the writ petitioner's

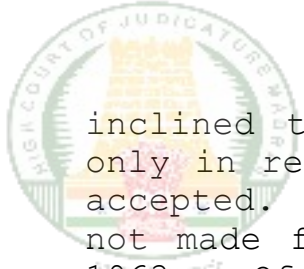


counsel appear to be strong and formidable. But, I am not persuaded to accept the same and allow this writ petition principally for two reasons. As held in (1985) 4 SCC 10 (State of Tamil Nadu vs. Ramalinga Samigal Madam), the main object of such statutes is to abolish all the estates of the intermediaries like Zamindars, Inamdars, Jagirdars or under-tenure holders etc., and to convert all land-holdings in such estates into ryotwari settlements which operation in revenue parlance means conversion of alienated lands into non-alienated lands, that is to say, to deprive the intermediaries of their right to collect all the revenues in respect of such lands and vesting the same back in the Government. The enactment and its several provisions are thus intended to serve the revenue purposes of the Government, by way of securing to the Government its sovereign right to collect all the revenues from all the lands and to facilitate the recovery thereof by the Government and in that process, if necessary, to deal with claims of occupants of lands, nature of the lands, etc. only incidentally in a summary manner and that too for identifying and registering persons in the revenue records from whom such recovery of revenue is to be made. The object of granting a ryotwari patta is also to enable holder thereof to cultivate the land specified therein directly under the Government on payment to it of such assessment or cess that may be lawfully imposed on the land.

9.It was on the strength of such reasoning, the jurisdiction of the civil court to go into the issue was saved notwithstanding an adverse decision to the claimants at the hands of the settlement authorities and notwithstanding the finality clause incorporated in the statutes. It is beyond dispute that the determination of the rights is made in a summary manner.

10.I am therefore of the view that the remedy open to the writ petitioner is to move the civil court for establishment of her title based on the evidence on which she is placing reliance. It is not possible for this Court to grant any relief to the writ petitioner in this writ proceeding. This is because, a mere look at the materials enclosed in the typed set of papers would indicate that for a full 50 years, the writ petitioner's family had remained silent and quiet. Even the transactions relied on by the writ petitioner stop with the year 1964. Thereafter, only in the year 2011, a representation has been made to various authorities. This Court gave the usual mandamus to dispose of the representation. It is that direction given by this Court that had laid the foundation for the present cause of action.

11.The writ petitioner has not anywhere averred as to when they were dispossessed. Of course, a faint claim is made that the <https://hcservices.equestgvtindia.com/> is still in possession. It obviously cannot be true. The local body had planted a number of trees in Survey No.50 and that is why even the Tahsildar, Thirumangalam who was



inclined to accept the case of the petitioner had stated that only in respect of the sub divided survey no.50/2 her case can be accepted. There is no explanation as to why an application was not made for grant of ryotwari patta under Tamil Nadu Act 30 of 1963. Of course, the writ petitioner would make a vague claim that her forefather was illiterate and uneducated. There is no reason as to why even the intervening generation also kept quiet. Of course, the Government's stand that the relevant records are not traceable to efflux of time is simply inexcusable. May be in a civil suit, an adverse inference can be drawn against the authorities.

12. In a writ proceeding arising out of a summary determination of the petitioner's claim, there cannot be a full-fledged adjudication on a question of title over a land. Secondly, there is a huge delay in agitating the rights available under the Act. Therefore, even while I decline to interfere with the order impugned in this writ petition, I make it clear that the writ petitioner is always at liberty to institute a civil suit and that the civil suit will be disposed of entirely on its own merits and uninfluenced by any of the observations made in this order.

13. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)

Skm
To

1. The Additional Chief Secretary /
Commissioner of Land
Administration, Chepauk,
Chennai - 600 005.
2. The District Revenue Officer,
Madurai District, Madurai.
3. The Revenue Divisional Officer,
Usilampatti, Madurai District.



4.The Tahsildar, Tirumangalam Taluk,
Madurai District.

+1cc to M/S. T.S.R.VENKATRAMANA, Advocate, Sr.No.67761

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and
MP (MD) No.2 of 2015
and WMP (MD) No.3058 of 2017
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BUC (01/07/2019) 6P/6C