



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

Date of Reserving the Order	Date of Pronouncing the Order
17.02.2020	05.03.2020

Coram

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P.No.18592 of 2013

and M.P.No.2 of 2013

1.Rajalakshmi
2.Ramachandran

.. Petitioners

vs

1.The Principal Secretary &
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2.The Settlement Officer,
O/o.The Settlement Officer,
Chepauk, Chennai - 600 005.

3.The Assistant Settlement Officer-South,
O/o.The Settlement Officer,
Chepauk, Chennai - 600 005.

4.The District Collector,
Madurai District, Madurai.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the entry caused on 13.12.1955 in the Settlement Land Register (S.L.R.) under Section 15 of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 26/1948, in the settlement records maintained by the 1st respondent herein, in so far as Survey No.31/2, Ulganeri Village, North Taluk, Madurai District is concerned and quash the same and consequently direct the 1st respondent to reverse the entry in the "A" Register and chitta register maintained by the respondents 2 and 3 herein, in so far as Survey No.31/2, Ulganeri Village, North Taluk, Madurai District is concerned from "Anadeenam" to "Patta land" and issue patta in favour of the petitioners to the lands situated in Survey No.31/2, Ulganeri Village, North Taluk, Madurai District.



WEB COPY

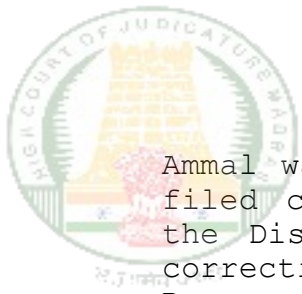
For Petitioners : Mr.G.Thilakavathi
Senior Counsel
for Mr.R.Gopinath

For Respondents: M/s.P.Rajalakshmi
Additional Government Pleader

O R D E R

The petitioners, who are the legal heirs of late Smt.Ammani Ammal, have filed this writ petition praying for issuance of writ of Certiorarified Mandamus, to quash the entry made on 13.12.1955 in the Settlement Land Register (S.L.R.) under Section 15 of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 26/1948 (for brevity "the Act"), in the settlement records maintained by the Office of the first respondent in so far as it relates to Survey No.31/2, Ulaganeri Village, North Taluk, Madurai District and for consequential direction upon the first respondent, reverse the entry in the "A" Register and chitta maintained in the office of the respondents 2 and 3 by converting the entry from "Anadeenam" to "Patta land" and issue patta in favour of the petitioners in respect of the said land.

2.M/s.G.Thilakavathi, learned Senior Counsel appearing for the petitioners submitted that the land in question was vested with one Srinivasa Iyengar, who was a ryot ever since 1930 and carrying on cultivation in the said land. After coming into force of the Act, patta was granted in favour of Srinivasa Iyengar bearing Patta No.18 and upon his death, an enquiry was conducted under Section 15 of the Act and entries were made in the SLR on 30.09.1955 by entering the name of Smt.Ammani Ammal, wife of Srinivasa Iyengar. During the update of the registers, an error had occurred in the "A" Register and the name of Smt.Ammani Ammal was omitted. However, this was not to her knowledge and during 2003, when she intended to settle the property, she came to know that her name has been omitted in the revenue records and the land has been classified as Anadeenam. A representation was given on 17.09.2003 to the first respondent stating that an error has occurred in the classification of the land and rectification was sought for. It is submitted that on 20.01.2004, the Tahsildar caused an inspection and submitted a report stating that the land was possessed and cultivated by Smt.Ammani Ammal. The report was accompanied by a sketch which would show that the land in question is in the midst of patta lands which was also under cultivation. On 19.04.2004, the District Revenue Officer submitted a report which was forwarded to the first respondent along with the Field Verification Records. However, on 29.11.2007, the request made by Smt.Ammani



Ammal was rejected. A writ petition in W.P.No.1871 of 2008 was filed challenging the said order primarily on the ground that the District Revenue Officer alone is competent for effecting corrections in errors and the matter was remanded. The District Revenue Officer, Madurai rejected the petition by order dated 30.12.2008 construing it as request for grant of patta as the petitioner failed to approach the authorities as required under G.O.Ms.No.714, CT & RE Department, dated 29.06.1987. Challenging the said order, appeal was preferred to the first respondent and by order dated 27.10.2009, the appeal was rejected.

3.A writ petition in W.P.No.26153 of 2009 was filed challenging the said order. The learned writ Court found that the order was passed without affording an opportunity to the writ petitioner therein and therefore, the order was set aside and the matter was remanded to the first respondent for fresh consideration by order dated 23.03.2010. Once again, the first respondent by order 01.10.2010 rejected the request made by the petitioner. This order was challenged in W.P.No.27887 of 2010. The writ petition was disposed of by giving opportunity to the petitioners to challenge the proceedings of the Assistant Settlement Officer and other consequential proceedings under the Act and in the meantime Status Quo was directed to be maintained with regard to the entries in the revenue records. Taking note of the submission made that copies of the orders were not furnished to the petitioners, a direction was issued to the effect that if the petitioners file an application for issuance of certified copies, the same shall be furnished within a time frame. It is submitted that in spite of such direction, copies of the orders and proceedings initiated under the Act were not furnished and that was the reason which prompted the petitioners to file the present writ petition.

4.The respondents in the interregnum had filed an appeal against the order in W.P.No.27887 of 2010 in W.A.No.171 of 2018. Before the Division Bench, the respondents stated that the original files contained the proceedings relating to the determination of compensation payable to inamdars and after the rejection of the claim for grant of patta, Smt.Ammani Ammal was given notices and for determination of compensation under Section 39(1) of the Act and the notice was acknowledge as early as on 16.07.1961. Noting that these documents were not placed before the learned writ Court when the same was heard and also the fact that whether Smt.Ammani Ammal had knowledge of the proceedings and having not challenged the proceedings over 50 years, whether she could be permitted to challenge the proceedings of the year 1948, the Division Bench thought fit to remand the writ petition for fresh hearing. Accordingly, the writ appeal was allowed and the writ petition was remitted to be



heard afresh. On such remand, the writ petition was taken up for fresh hearing and by order dated 26.07.2019, the same was disposed of giving liberty to the petitioners to challenge the proceedings of the Assistant Settlement Officer and other proceedings under the Act. It is in these circumstances, the present writ petition is being pursued by the petitioner for the aforementioned relief.

5.It is submitted by the learned Senior Counsel that though direction was issued to furnish copies of the orders of the Assistant Settlement Officer, till date, the same has not been furnished. Further the records which were placed by the respondents do not reflect that any appeal was preferred by the husband of Smt.Ammani Ammal and that the same was dismissed as the records reflect the entry of the year 1953, whereas the husband of Smt.Ammani Ammal, Srinivasa Iyengar died in the year 1949 itself. The oral submission of the tenant which has been relied on by the respondents have been recorded on 28.12.1958 which could not have been the basis for authorities to pass an order in the year 1953. Further, it is submitted that the lands which have been referred to in the proceedings relied on by the respondents, more particularly, the lands in Survey Nos.14 and 15, as on date have been sub-divided and recorded as patta lands in the "A" Register. Thus the learned Senior Counsel submitted that the proceedings relied on do not reflect the true and correct status and the veracity of the orders stated to have been passed has not been established.

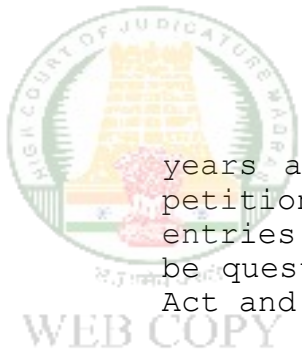
6.When the writ petition was pending, a direction was issued on 30.10.2019 directing the Settlement Officer and the Assistant Settlement Officer to produce the order dated 13.12.1955. Pursuant to such direction, an affidavit was filed by the second respondent dated 25.11.2019 stating that the entry in the records as Government assessed waste dry lands has become final and cannot be questioned before any Court of law as per Section 15(2)(b) and Section 64(C)(2) of the Act. The petitioner filed a reply affidavit to the said affidavit pointing out various infirmities in the stand taken by the second respondent. Subsequently, the matter was heard further and on 29.01.2020, an order was passed permitting the learned counsel for the petitioner to peruse the original files in the presence of the learned Additional Government Pleader and the officials. Pursuant to which, the learned counsel perused the file and has filed an affidavit dated 10.02.2020 stating that the files do not indicate the receipt of notice by the petitioner's predecessor with reference to Survey No.31/2 and the respondents are attempting to take advantage of the fact that as other lands belonging to the petitioner's predecessor had been taken over, namely, S.Nos.11/2, 13(part), 14/6 and 14/4 to 15/5 and assigned to their parties in whose name patta



stands. It is further submitted that only the subject property, namely, S.No.31/2 has been recorded as Anadeenam and has not been assigned to anyone even though the original SLR entries were updated after completion of updating of registers. It is further submitted that if the original SLR is produced, the veracity of the entries can be assigned and as of now, there is no material to show that the petitioner's predecessor were divested of their possession of the land as the revenue authorities even as late as 2003-04 confirmed that the petitioner is under cultivation of the land and 'B' memo charges have been remitted continuously.

7. In response to the affidavit filed by the petitioner dated 10.02.2020, the second respondent filed a reply affidavit on 17.02.2020 and while reiterating the earlier stand submitted that the records clearly prove that the claimant made an attempt for securing patta in respect of the land in S.No.31/2 and other survey numbers by resorting to the procedure under Section 15 of the Act, the same was rejected by the Estate Abolition Tribunal in the year 1960 and the land has been treated as a Government poramboke as the land owner failed to fulfil the requisites under the Act. It is further submitted that based on the said decision, the entry in the SLR showing the name of Smt. Ammani Ammal has been rounded off and the land was entered as Government poramboke and this entry has been carried out in the Settlement 'A' Register. Further, it is submitted that the petitioners, the legal heirs of Smt. Ammani Ammal have now filed an affidavit stating that the compensation proceedings does not relate to S.No.31/2. This contention is incorrect because in terms of Section 25 of the Act, compensation for the estate has to be determined as a whole. The learned senior counsel submitted that the contentions now put forth before this Court is not tenable. There is no conclusive record to show that the petitioners' mother Smt. Ammani Ammal was divested of her right over the property and in the absence of any such record, the entries have to be set aside and patta has to be granted in favour of the petitioner.

8. M/s. P. Rajalakshmi, learned Additional Government Pleader appearing for the respondents 1 to 4 after reiterating the stand taken in the affidavits which were filed during the hearing of the writ petition as well as the counter affidavit initially filed in the writ petition sought to sustain her submission by producing the original files. The Court perused the original files and in fact inspection of the files was permitted to be done by the learned counsel for the petitioner who has made an inspection and the petitioner has also filed an affidavit for which reply has been filed by the respondents. The learned Additional Government Pleader submitted that the records clearly show that the claim made by the petitioner after a lapse of 62



years after introduction of the settlement in the village, the petitioners are attempting to unsettle a settled issue and the entries in the village records have become final and it cannot be questioned under Section 15(2)(b) and Section 64(C)(2) of the Act and if the petitioners claim possession, the same is illegal.

9. Heard the learned senior counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents and carefully perused the averments set out by both the parties as well as the original files which were placed before the Court.

10. In the preceding paragraphs, the factual position has been set out to give a bird's eye view as to what the present litigation is about. The petitioners are son and daughter of late Smt. Ammani Ammal. Their claim is that the land in S.No.31/2, Ulaganeri Village forms part of an inam estate and their mother was in possession, enjoyment and cultivation of the property and they are entitled for grant of patta. In the light of the fact that prior to the settlement proceedings in the year 1960 itself, Patta No.18 had been granted in favour of the petitioners' mother. The petitioners would contend that classifying the land as Anadeenam is illegal and the entry as 'Government Dry Assessed' and in the Settlement 'A' Register under the Act is illegal. An argument was put forth by the learned senior counsel for the petitioner that no notice was issued to Smt. Ammani Ammal and the records now placed before this Court does not conclusively prove that the claim for patta under the Act was rejected. The relief that can be granted in this writ petition would depend upon the answer to the aforesaid question. It needs to be pointed out that the present controversy has been raised after nearly five decades after the necessary entries have been made in the revenue records. It is no doubt true that during the lifetime of Smt. Ammani Ammal, litigation commenced but the orders passed in the earlier round of litigation has not taken the petitioners anywhere except the fact that liberty was granted to question the proceedings of the Assistant Settlement Officer. The present writ petition in fact is in the nature of seeking to quash the proceedings of the Assistant Settlement Officer and grant patta in favour of the petitioners. There is no allegation of malafide against the officials. The genuinity of the records which were placed before this Court have not been doubted. The argument is that there is no conclusive proof to establish that the claim for patta made by Smt. Ammani Ammal was rejected. To be noted that the proceedings pertain to the year 1953 onwards. Therefore, it would not be proper for the Court to draw an adverse inference merely on the ground that the respondents have not been able to place all the original files which are emanating from the office of the Assistant Settlement Officer way back during 1950's.



Therefore, the endeavour of this Court would be to test the correctness of the stand taken by the respondents while praying for rejection of the relief sought for in the writ petition.

11. The undisputed fact, rather admitted, by the respondents is that the land in question is a Pannai land (private) and the claim of the land owners are required to be dealt with in terms of Sections 12, 13 or 14 of the Act and this claim is maintainable only at the instance of the land owner and the conditions being that the land owner who cultivate the land himself for 12 years before commencement of the Act, with his own servants, hired labour, own or hired stock in terms of Section 12 of the Act re/w. Section 3(10) of the Estate Land Act, 1908. The respondents were able to demonstrate before this Court that the lands in question were leased out to one Muthazhagu Konar and his settlement has been recorded by the Settlement authorities when the proceedings were going on. In the said settlement, it has been stated that the lands belonging to Smt. Ammani Ammal and Sethu Lakshmiammal and he has taken the same on lease and has been cultivating paddy for over 20 years. Further, he has stated that he is the lessee of the said lands even prior to taking over the land by the Government and he had been paying paddy as lease rent till 28.12.1958. Further, he would state that he had not obtained Kudiwaram rights from the land owners and he had utilized for paddy cultivation on lease basis for 20 years and he had no rights for the said lands. Therefore, in the considered view of this Court, the respondents are justified in taking a stand that this record is sufficient to establish that Smt. Ammani ammal had not cultivated the lands herself but leased out the same to others. There is sufficient indication in the records to show that the claim of Smt. Ammani Ammal has been disallowed by the Assistant Settlement Officer and the Estate Abolition Tribunal through the settlement proceedings as the eligibility requirement was not fulfilled. Thus, from the available records, it is seen that a claim for patta in respect of the land in question under Section 15 of the Act was made but the claim was disallowed during 1960. Consequently, the entry in the SLR has been rounded off and the land has been entered as Government poramboke land. Therefore, it would not be permissible for the petitioner to reopen a settled issue after nearly six decades.

12. The petitioners contention is that there is no conclusive proof to show that the claim for patta was rejected. The respondents have been able to place records before this Court to show that the claim for patta was rejected coupled with the statement recorded from the lessee, the remarks of the field staff, etc. In such situation, the burden cast upon the respondents has been discharged and it is for the petitioner to establish that the claim for patta was not rejected or in other



words, was rejected and challenged and not decided, etc. and the burden of proof cannot be shifted by the petitioners to the respondents. It is no doubt true that the learned Writ Court while disposing of the writ petition in W.P.No.27887 of 2010 dated 26.07.2019 had upon verification of the records made certain observations to the fact that the original petitioner, namely, Smt.Ammani Ammal was not put on notice before the land being classified as Anadeenam. Further, there is also observation that there is no proof or evidence produced by the Settlement officer for having enquired the land owners. In the considered view of this Court, there are all observations made by the Court for being convinced to issue the ultimate direction in its order dated 26.07.2019 which was giving liberty to the petitioner to challenge the order of the Assistant Settlement Officer. Thus, if the petitioner had to take advantage of the observations made in the earlier order, then it is for them to conclusively establish that the procedure has not been adopted as required under the provisions of the Act. Admittedly, the records are very old records and the papers have become brittle and after having slept over the matter for several decades, the petitioners cannot be permitted to reopen a settled issue. The petitioners claim that they are in possession of the property till date and they have remitted 'B' memo charges. If that is so, then it goes without saying that the land is a Government poramboke land and the petitioner is an unauthorized occupant whose occupation has been noted and penal levy by way of 'B' memo charges have been collected. Therefore, the payment of such charges cannot in any manner advance the case of the petitioners but rather put the petitioner in a disadvantageous position.

13.The original files contains the Statement of Porambokes and all Unoccupied Lands in Madurai District and the form has been prepared during 1955. The Statement is in a tabulated format giving paimash number, survey number, remarks of the Inspector, remarks of the Settlement Deputy Tahsildar and the order of the Assistant Settlement Officer. In the remarks of the Inspector, there is a column giving recommendation as to the treatment of the land. In the said column against the land in question it has been mentioned that the lands are pannai lands - lands owners have applied for patta under Section 15 of the Act but was disallowed by the ASO, Madurai and EAT, Madurai and the lands in S.No.31/2 and S.No.33/5 may be retained as Assessed Waste Wet and S.No.11/2 and S.Nos.13/14/1 may be as Assessed Waste Dry. The Settlement Deputy Tahsildar in his remarks taking note of the disallowance of claim for patta directed the land to be retained as Assessed Waste Wet. The Assistant Settlement Officer on 27.05.1959 has passed the order to retain the lands as Assessed Waste Wet. The above details are found in the SF Register. The veracity of the records placed before this



Court can hardly be doubted. If the petitioners are to state something contrary to the records, it is for the petitioners to prove the same and the burden of proof cannot be shifted on the respondents. Likewise, the enquiry file pertaining to Group No.119 of Ulaganeri Village contains the statement of Muthazhagu Konar which is cogent. There is a tabulated statement which gives the name of the land owner, R.S. Number, extent, description of the land, name of the account right hand side of the SLR, orders under Section 15 of the Act - allowed or disallowed and the remarks of the field staff. The name of the land owner has been mentioned as Smt.Ammani Ammal and T.Sesahdri Iyengar, R.S. has been given, the extent has been given and the account right hand side of the SLR contains the name of Ammani Ammal and Andal Ammal and in the column orders under Section 15 of the Act, it is stated as 'disallowed'. In the remarks of the Field Staff, it is stated that their lands are cultivated by the ryots for lease and the statement obtained from the ryots has been filed. The above details are found in page No.33 of the enquiry file.

14.The compensation record for Ulaganeri Inam Estate has been produced which is indicated as R.Dis.No.39402/59. On perusal of the file, it is seen that the compensation is determined for the entire Inam village which was taken over and notified on 01.10.1951. There are statutory forms showing the data for calculating basic annual sum and total compensation for inam estate and the names of the Inamdars are mentioned as 1.T.Seshadri Iyengar, 2.Minor S.Krishnamoorthy and Minor S.Ramachandran - Guardian mother Ammani Ammal. Further, an order has been passed by the Director of Settlement on 09.06.1961 determining under Section 39(1) of the Madras Estates Abolition and Conversion into Ryotwari Act, 1948, Rs.720.60np as basic annual sum and Rs.21618np as total compensation payable in respect of 104 Ulaganeri Inam Estate in Madurai Taluk in Madurai District taken over by the Government on 01.10.1951 vide Notification No.28 dated 07.08.1951. The copy of the order has been communicated to Minor S.Krishnamoorthy and Minor S.Ramachandran represented by Guardian-Mother Smt.Ammani Ammal, Thirumogoor. On the reverse of the said order, the signature of Smt.Ammani Ammal is found dated 16.07.1961 acknowledging the receipt of the same and there are three such acknowledgements in page Nos.157 to 162 of the said file. In Page No.245 of the file, copy of the notice dated 08.08.1962 issued under Section 39(4)(a) of the Act proposing to review the order passed earlier on 09.06.1961 finds place. On the reverse of the said notice in page No.246, the signature of Smt.Ammani Ammal is found dated 07.08.1962. In page No.255, the copy of the order dated 03.11.1962 passed by the Director of Settlement finds place and in page No.256, the signature of Smt.Ammani Ammal finds place for having acknowledged the receipt of the order. The original



'A' Register dated 13.01.1962 has been produced which shows that the lands in S.No.31/2 has been classified as Anadeenam.

15.The above records, in the considered opinion of this Court are sufficient to conclude that the proceedings under the Act were initiated at the instance of the land owner, claim for patta was made which was rejected under Section 15(1) of the Act, compensation was determined, order has been passed by the Director of Settlement and orders have been acknowledged by Smt.Ammani Ammal, which will all go to show that the present attempt is to reopen the settled issue which is impermissible. For all the above reasons, no relief can be granted to the petitioners.

16.In the result, the writ petition fails and is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

cse

To

- 1.The Principal Secretary &
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
- 2.The Settlement Officer,
O/o.The Settlement Officer,
Chepauk, Chennai - 600 005.
- 3.The Assistant Settlement Officer-South,
O/o.The Settlement Officer,
Chepauk, Chennai - 600 005.
- 4.The District Collector,
Madurai.

+1cc to Mr.R.Gopinath, Advocate SR.No.19677

W.P.No.18592 of 2013
and M.P.Nos.2 of 2013

SR(CO)
GMY(01/07/2020)