

In the High Court of Judicature at Madras

Dated : 20.2.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.16505 of 2016 & WMP.No.14268 of 2016

N.Nanjundappa

...Petitioner

Vs

1.The State of Tamil Nadu, rep.by
the Principal Secretary &
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai-5.

2.The Commissioner of Land Survey
& Settlement, Survey Building,
Chepauk, Chennai-5.

3.The District Collector, Krishnagiri
District, Krishnagiri.

...Respondents

Petition under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records pertaining to G.O.Ms. No.310 dated 24.8.2015 on the file
of the first respondent and quash the same.

For Petitioner : Mr.S.Kumaresan

For Respondents : Mr.E.Balamurugan, SGP (for R1)

Mrs.A.Sri Jayanthi, SGP
for R2 and R3.

ORDER

This writ petition has been filed challenging G.O.Ms.No.310
Revenue Department dated 24.8.2015, by which, the Government,
while exercising its suo motu powers of revision under the
provisions of the Tamil Nadu Estates (Abolition and Conversion
into Ryotwari) Act, 1948 (for brevity, the Act), set aside the
ryotwari patta granted by the second respondent herein in favour
of the petitioner's father.

2. It is not in dispute that the petitioner's father made a claim for grant of ryotwari patta under the provisions of the Act in respect of S.Nos.1/1, 2/5, 2/1, 3/1 and 3/9. The Assistant Settlement Officer, Hozur, by proceedings dated 08.7.1958, submitted a proposal to the Board of Revenue for grant of ryotwari patta under Section 19 of the Act to the father of the petitioner and only in respect of S.Nos.1/1 and 2/5, patta was granted. So far as the request for patta in respect of S.Nos.2/1, 3/1 and 3/9, the patta was not granted and the petitioner's father was directed to file a revision petition before the Settlement Officer, Salem. However, after a long time, on an appeal by the petitioner on 13.9.2011, the second respondent, by order dated 28.9.2011, allowed the appeal filed by the petitioner by proceeding on the footing that the application of the petitioner's father for grant of patta in respect of those three survey numbers was pending in file No.2519 of 1958 dated 08.7.1958.

3. However, it is seen that the said finding recorded by the second respondent is factually incorrect because the files show that the request for grant of patta in respect of those three survey numbers was rejected and that the petitioner's father was advised to file a revision petition before the Settlement Officer, Salem. From the records placed before the Government as well as before this Court, there is nothing to indicate that the petitioner's father filed a revision petition before the Government. Therefore, the Government was fully justified in exercising its suo motu powers of revision and canceled the order passed by the second respondent dated 28.9.2011.

4. One more aspect, which needs to be examined, is with regard to the procedure adopted by the second respondent. The Government noted that the appeal was filed before the second respondent on 13.9.2011, that the notice of hearing was issued on the same day, that the enquiry was posted on 26.9.2011, that the enquiry was conducted on 27.9.2011 and that on 28.9.2011, orders were passed by the second respondent granting patta. The Government further noted that the second respondent did not call for the survey land register (SLR) from the concerned District Collector for verification, that the second respondent did not even enquire the Tahsildar the concerned though Tahsildar is custodian of Government lands and that he had not recorded the statement of the Tahsildar. The Government further noted that the second respondent proceeded solely on the statements given by the Zonal Deputy Tahsildar and the Village Administrative Officer. Though it appears that the second respondent acted with utmost haste, it is not known as to why he acted in such a manner.

5. Further, as per G.O.Ms.No.714 dated 29.6.1987, any claim for ryotwari patta should have been made before the cut off date fixed in the said Government Order i.e. 20.8.1987. The petitioner's appeal for grant of patta was on 13.9.2011 and the second respondent did not have any jurisdiction to grant ryotwari patta. Therefore, the Government was right in setting aside the grant of patta and passing the impugned Government Order. Thus, this Court finds that there is no error in the impugned Government Order.

6. The learned counsel for the petitioner submits that since the petitioner's father is no more, the petitioner does not have any records as of now to establish as to whether his father filed any revision petition to the Settlement Officer, Salem within the time limit prescribed by the order passed by the Assistant Settlement Officer dated 08.7.1958.

7. In the considered view of this Court, before the Government, no records were placed to prove that such a revision was filed. Hence, at this juncture, taking note of the said submission, the impugned order cannot be set aside. It is needless to state that if the petitioner has any records to establish that a revision petition has been filed to the Settlement Officer, Salem in the year 1958 and if the same has not yet been disposed of, it is always open to the petitioner to make a fresh claim to the Government in accordance with law.

8. With the above observations, the writ petition is dismissed. No costs. Consequently, the connected WMP is also dismissed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

RS

To

1.The Principal Secretary and Commissioner of Land
Administration,
Ezhilagam, Chennai-5.

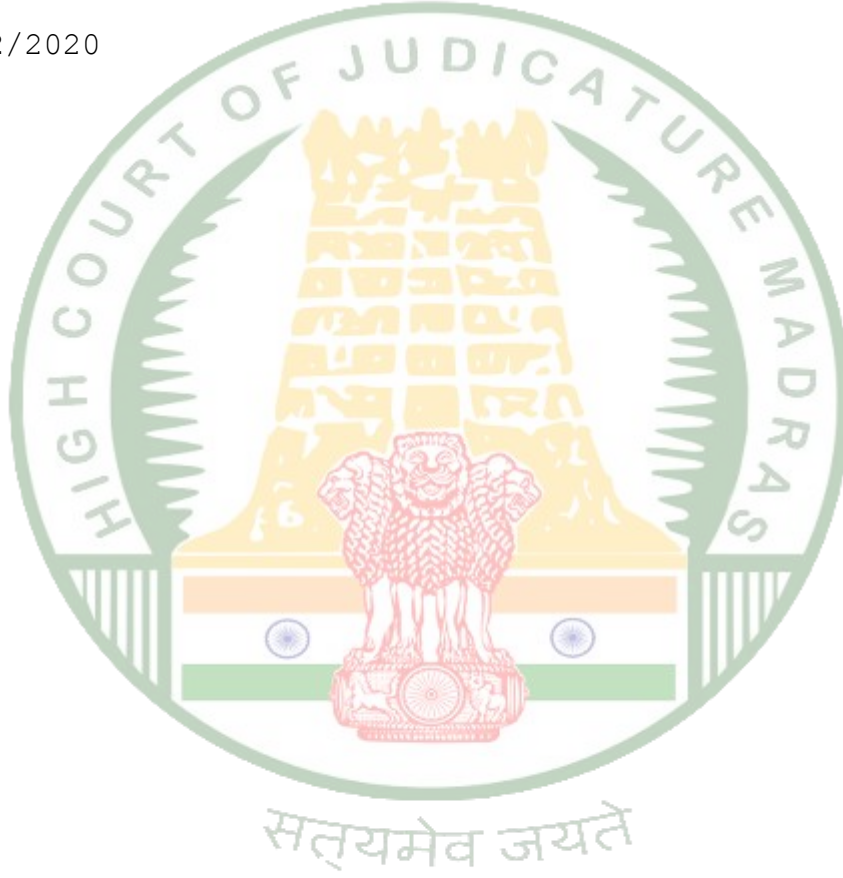
2.The Commissioner of Land Survey & Settlement,
Survey Building,
Chepauk, Chennai-5.

3.The District Collector,
Krishnagiri District,
Krishnagiri.

+1cc to Mr.S.Kumaresan, Advocate, SR.No.14626.
+1cc to Government Pleader, SR.No.15212.

WP.No.16505 of 2016&
WMP.No.14268 of 2016

SPD(CO)
CSR: 20/02/2020



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