



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.11076 OF 2013

1. J.Mohanraj
 2. J.Pushparaj
 3. J.Udhayakumar
 4. J.Raghumani
 5. R.Maya
 6. V.M.Shyamala
 7. E.Alagumani
 8. N.Mahesh
 9. A.Sampath
 10. A.Banumathy
 11. R.Saroja
 12. C.Subbulakshmi
 13. M.Panner Selvam
 14. R.Govindraaj
 15. G.Kalavathi
 16. K.Arulmurugan
 17. K.Meenakshi Sundaram
 18. P.Umapathy
 19. A.Andalammal
 20. S.Chakravarthi Valli
 21. K.Bangaru Ammal
 22. N.Ramachandran
 23. R.Saroja
 24. A.Mahendran
 25. K.Kanaga Karunakaran
 26. K.M.Pappiah (Died)
 27. C.G.Vilasisni
 28. S.Lakshminarayanan
 29. Hajira Bee
 30. S.Mohammed Ali
 31. S.Khaja Shariff
 32. S.Fatima
- (Petitioners 29 to 32 brought on record as legal heirs of the deceased 26th petitioner by an order dated 20.12.2021 in W.M.P.No.6005 of 2017 in W.P.No.11076 of 2013.)

... Petitioners



-Vs-

1. The Principal Secretary
cum Commissioner of
Land Administration,
Chepauk, Chennai -600 005.
2. The Settlement Officer,
Chennai.
3. Sri Bharathwajeswarar Temple,
Rep. by its Executive Officer,
Puliyur, Kodambakkam,
Chennai - 600 024.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in reference Ref.K.1-15251/2009 dated 12.02.2013 and quash the same and direct the respondent to grant patta for their buildings and lands at Block 3, Pulliyur Village, Vadapalani, Chennai.

For Petitioners

For P1, P3, P4, P6

to P14, P16 to P28 : Mr.K.Srinivasan,
Senior Counsel

For Mr.J.Antony Jesus

For P2, P5 & P15 : Mr.S.Nambirajan

For Respondents

For R1 & R2

: Mr.V.Jeevagiridharan

Additional Government Pleader

For R3

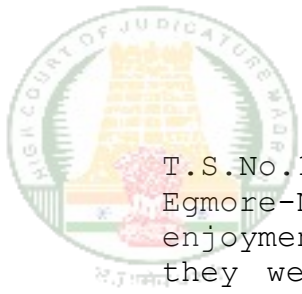
: Mr.K.S.Navin Balaji

For Mr.Arun Karthik Mohan

ORDER

The Writ Petition has been filed to call for the records of the first respondent in reference Ref.K.1-15251/2009 dated 12.02.2013 and quash the same and direct the respondents to grant patta for their buildings and lands at Block 3, Pulliyur Village, Vadapalani, Chennai.

2. The case of the petitioners is that the petitioners and their predecessors owned building in the land comprised in



T.S.No.14, 15 & 16 situated at Block No.3, Puliyur Village, Egmore-Numgambakkam Taluk. Though there are in possession and enjoyment of their respective houses for the past several years, they were not granted ground rent patta. Therefore, they made representation before the Commissioner of Land Administration and on verification of their revenue tax receipts and continuous possession, they were granted ground rent patta on 26.08.2004. Aggrieved by the same, the Deputy Commissioner, Hindu Religious and Charitable Endowments (herein after referred to as "HR & CE") filed appeal on the ground that the lands belonged to the third respondent by citing proceedings of the Settlement Tahsildar III, Chengalpet, dated 15.05.1971.

3. Thereafter, the petitioners came to know that the enquiry for patta in the land was a suo-motu enquiry and the scope of the enquiry was to determine whether the petitioner were entitled to ground rent patta. Further no material was produced by the third respondent to prove its ownership. However, the Settlement Officer directed to issue ground rent patta in favour of the third respondent on the sole ground that the petitioners had already been paying rent for the land to the third respondent. Therefore, the Settlement Officer held that the third respondent is lawfully entitled for both warams in the subject lands. The Settlement Tahsildar, as against a Settlement Officer, had no jurisdiction to deal with buildings in the inam lands and he is not competent to direct the issuance of ground rent patta in favour of the third respondent.

4. That apart, the inam grant was a Serva Inam and it is described as Thiruvaleeswara Maniyam. The Inam grant is for the Pooja services for Sri Thiruvaleeswarar Temple at Puliyur Village. The lands in the possession of the petitioners are therefore, un-enfranchised religious inam and original grant was for both the warams. Since the inam is a service inam, the poojari who has rendered service to Thiruvaleeswara temple is entitled for the grant of patta. Therefore, the third respondent is entirely different from the service inam land. The temple authority failed to produce any evidence to show that the Tiruveleeswarar Temple and the third respondents are one and the same. Whereas the petitioners were produced the revenue records relating to the temple, which clearly shows that there are two unrelated temples and with individual lands and it could not be contended that there are one and the same.

5. It is also against the provisions under Section 13(1) of the Abolition Act as well as the law laid down by the Division Bench of this Court in the judgment reported in 1980 (93) LW 707 in the case of K. Vellappa Gounder and ors Vs. K.S.Thirugnansambandam Chettiar & ors., which held that only the



owner of the superstructure has got the right to get ground rent patta and the rights of the site vest with the Government. Hence, the petitioners filed this Writ Petition with the above said prayer.

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6. Heard Mr.K.Srinivasan, learned Senior Counsel appearing for the petitioners 1,3,4,6 to 14 & 16 to 28, Mr.S.Nambirajan, learned counsel appearing for the petitioners 2,5 & 15, Mr.V.Jeevagiridharan, learned Additional Government Pleader appearing for the respondents 1 & 2 and Mr.K.S.Navin Balaji, learned counsel appearing for the third respondent.

7. On perusal of the counter filed by the first respondent revealed that Puliur Village was taken over by the Government under the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, XXVI of 1948. Since the subject lands were minor inam lands, the Ryotwari Settlement was introduced under the provisions of Tamil Nadu Inam (Abolition and Conversion into Ryotwari) Act, 30 of 1963. The Settlement Tahsildar in his proceedings dated 15.05.1971 had allowed ground rent patta in respect of the subject land under Section 13(1) of the Act 30 of 1963 in favour of the third respondent. The Settlement Tahsildar rejected the request of the petitioners as they were tenants under the third respondent, even though the super structure put up by them. In fact, the said order was not challenged by the petitioners. Further the Tahsildar, Egmore-Nungambakkam in his proceedings dated 26.08.2004 had transferred patta in the names of the petitioners. Aggrieved by the same, the third respondent filed Revision before the District Revenue Officer, Chennai, who in his order dated 12.08.2005 had set aside the order passed by the Tahsildar and ordered to restore the patta in the name of the third respondent. Aggrieved over the same, the petitioners filed Revision before the first respondent viz., the Commissioner of Land Administration. The first respondent conducted detailed enquiry and by an order dated 10.02.2006 held that the issue was already settled in the year 1971 itself, when the patta was allowed in favour of the third respondent. Thereafter, the petitioners filed appeal before the Inam Abolition Tribunal and the same was rejected, since the proceeding is in the matter of transfer of registry on the order passed by the District Revenue Officer and the Commissioner of Land Administration has also confirmed the order.

8. While pending the proceedings, the petitioners also filed petition before the Settlement Officer seeking cancellation of Settlement Tahsildar's order dated 15.05.1971. The petitioners also filed a suit as against the order of the Settlement Tahsildar, in C.M.A.No.87 of 2006 before the City Civil Court, Chennai. After issuance of order by the



Commissioner of Land Administration on 10.02.2006, the City Civil Court, Chennai, had transferred the entire records to the Settlement Officer, on the request made by the petitioners and on receipt of the same the Settlement Officer had taken the petition for enquiry. After due enquiry, the Settlement Officer has set aside the order passed by the Settlement Tahshildar dated 15.05.1971 and treated the land as Government Poramboke. Aggrieved by the petitioners as well as the third respondent filed revision before the first respondent and the first respondent set aside the order passed by the Settlement Officer and confirmed the order passed by the Settlement Tahsildar dated 15.05.1971.

9. The contention of the petitioners is that the grant made in favour of Sri Thiruvalléeswarar Temple at Puliyur village is not related to the third respondent. During enquiry before the first respondent, the contention of the petitioners was that they stopped paying rent to the third respondent for long time and they had got adverse possession of the subject land, since the third respondent has not taken steps to recovery possession of the subject land. Thus it is clear that the petitioners were originally tenant of the third respondent. On the basis of which, the petitioners' claim for patta was rejected by the Settlement Tahsildar.

10. That apart, the question of adverse possession shall not be dealt with by the first respondent and the civil Court alone is the competent to issue adverse possession and title. In fact, the issue was settled in the year 1971 and thereafter, no appeal was preferred by the petitioners. Though the petitioners raised ground that they had no knowledge about the order passed by the Settlement Tahsildar, the predecessors of the petitioners were enquired by the Settlement Tahsildar and they were deposed that they have taken lease of the land from the third respondent and constructed their respective houses. Therefore, they cannot claim that there are not aware of the order passed by the Settlement Tahsildar.

11. Further, the Settlement Officer has no power to entertain the petition under the Act 30 of 1963 and has no power to set aside the order of the Settlement Tahsildar dated 15.05.1971. It is clear that the appeal as against the said order would lie before the Inam Abolition Tribunal viz., the City Civil Court. The petitioners filed suit in C.M.A.No.87 of 2006 on the file of the City Civil Court, and on their request the same was transferred to Settlement Officer, instead of seeking remedy before the Civil Court. Therefore, the issue was settled as early as, in the year 1971 and the civil Court is the only competent forum to decide the possession and other claims



made by the petitioners. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent and the Writ Petition is devoid of merits and is liable to be dismissed.

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12. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Principal Secretary
cum Commissioner of
Land Administration,
Chepauk, Chennai -600 005.
2. The Settlement Officer,
Chennai.
3. The Executive Officer,
Sri Bharathwajeswarar Temple,
Puliyur, Kodambakkam,
Chennai - 600 024.

+1cc to Mr.J.Antony Jesus, Advocate, S.R.No.68246

+1cc to Mr.Arun Karthik Mohan, Advocate, S.R.No.68600

+1cc to the Government Pleader, S.R.No.68704

W.P.No.11076 of 2013

UM(CO)

RLP(25/02/2022)