



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.22937 OF 2015

AND

M.P.NO.1 OF 2015

K.Daisy

... Petitioner

Vs

1. The Assistant Settlement Officer (North),
Survey and Settlement Department,
Survey House,
Chepauk,
Chennai - 600 005.
2. The Tahsildar,
Ponneri Taluk,
Thiruvallur District.
3. The Revenue Divisional Officer,
Ponneri,
Tiruvallur District.
4. M.Murugan
(R4 impleaded vide order dated 20.09.2021 made
in W.M.P. No.12537 of 2016 in W.P.No.22937 of 2015)
5. S.B.Gandhi
(R5 impleaded vide order dated 20.09.2021 made
in W.M.P. No.18306 of 2016 in W.P.No.22937 of 2015)
6. J.Manoharan
(R6 impleaded vide order dated 20.09.2021 made
in W.M.P. No.4596 of 2017 in W.P.No.22937 of 2015)
7. Kondakkarai Youth Service Association,
Rep. by its Secretary Mr.P.Ragu,
S/o. Paramanantham,
Kondakkarai Village, S.R.Palayam Po., Ponneri Tk.,
Tiruvallur District.



(R7 impleaded vide order dated 20.09.2021 made in W.M.P. No.9177 of 2017 in W.P.No.22937 of 2015)

8. R.N.Ramesh Nagappan

(R8 impleaded vide order dated 20.09.2021 made in W.M.P. No.24141 of 2021 in W.P.No.22937 of 2015)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his proceedings Na.Ka.No.5407/2012/A1 dated 18.05.2015 conformity order of 2nd respondent order in Na.Ka.No.19311/2014/B2, dated 30.12.2014 and quash the same and consequently, direct the 2nd respondent to issue patta in favour of petitioner as per order of the 1st respondent passed in M.M.2484/2012 dated 04.04.2012.

For Petitioner	: Mr.T.Mohan for Mr.G.Mutharasu
For R1 to R3	: Mr.A.Selvendran Special Government Pleader
For R4	: Mr.R.S.Anandan
For R5	: Mr.S.Udhayakumar
For R6	: Mr.V.Raghavachari for Mr.M.Kempraj
For R7	: Mr.V.R.Appaswamee
For R8	: Mr.M.Velmurugan

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in his proceedings Na.Ka.No.5407/2012/A1 dated 18.05.2015 conformity order of second respondent in Na.Ka.No.19311/2014/B2, dated 30.12.2014 and quash the same and consequently, direct the second respondent to issue patta in favour of petitioner as per order of the first respondent passed in M.M.2484/2012 dated 04.04.2012.

2. The case of the petitioner is that the property comprised in S.No.616/2B3 to an extent of 0.83 cents, the property comprised in S.No.616/2B1 to an extent of 0.16 cents and the



property comprised in S.No.600/2 to an extent of 0.13 ^{1/2} cents bearing Patta No.1155 situated in No. 42, Vallur Village (New No.144 Vallur II) Ponneri Taluk, Thiruvallur District, owned by one (late) Panduranga Reddy. The revenue records stood in his name. He executed a sale deed in the name of one Kotteswaran vide Registered Document No.2636 of 1981 to an extent of 0.34 cents out of 0.86 cents comprised in S.No.616/2B3. Thereafter, he executed Unregistered Mortgage deed dated 25.02.1999 in favour of the said Kotteswaran in respect of the property comprised in S.No.600/2 to an extent of 0.14 cents and the property comprised in S.No.616/B to an extent of 2.0 acres.

3. Thereafter, the Government of Tamil Nadu had acquired 0.42 cents out of 2.0 acres in the land comprised in S.No.616/2A in the year 1968 and the remaining extent of 1.58 acres of the said property comprised in S.No.616/2B had also acquired by the Government of Tamil Nadu in the year 1971. Again, part of the land was acquired and in total 0.98 cents and sub divided as S.No.616/2B2. The remaining extent of the property ad-measuring 1.02 acre sub divided as S.No.616/2B1 to an extent of 0.16 cents and S.No.616/2B3 to an extent of 0.86 cents in Patta No.1155. In the mortgage deed, the said Panduranga Reddy handed over the entire possession and enjoyment rights to the said Kotteswaran from the date of execution of the mortgage deed. Thereafter, the said Kotteswaran has been in the absolute possession and enjoyment of the mortgage property. The said Panduranga Reddy died on 25.12.2005 without any issues and also he did not redeem the above said mortgaged property. The said Kotteswaran executed a sale deed in favour of the petitioner vide registered sale deed bearing document No.7500/2010 dated 26.10.2010 in respect of the property comprised in S.No.616/2B3.

4. From the date of purchase, the petitioner is in possession and enjoyment of the same and approached the Commissioner of Survey and Settlement Department to include her in the patta. On receipt of the same, the enquiry was conducted and passed order on 05.09.2011 directing the second respondent to issue joint patta in favour of the petitioner and mutated revenue records in the name of Panduranga Reddy and the petitioner. Accordingly, the second respondent mutated the revenue records and issued joint patta No.2754 in favour of the Panduranga Reddy and the petitioner. However, the petitioner came to understand about the death of said Panduranga Reddy and approached the first respondent to delete his name from the joint patta and issue an order for individual patta in favour of the petitioner. The first respondent conducted enquiry and passed an order on 04.04.2012 directing the second respondent to delete his name from the joint patta and all the revenue records and maintain the petitioner name alone in all revenue records.



5. Though the petitioner submitted a representation to comply the said order, the second respondent failed to consider the same and the petitioner approached this Court by way of filing W.P.No.33425 of 2013 and this Court by an order dated 30.04.2014 directed the second respondent to implement the order passed by the first respondent, if there is no other legal impediment within a period of eight weeks from the date of receipt of a copy of the order. However, the second respondent passed an adverse order dated 30.12.2014 without issuing any notice to the petitioner in view of the circular dated 14.12.2011 of the Commissioner of Land Administration. Thereafter, the petitioner preferred an appeal before the third respondent and the third respondent by the impugned order dated 18.05.2015 confirmed the order passed by the second respondent that too without issuing any notice to the petitioner.

6. Learned counsel for the petitioner submitted that the Commissioner of Settlement and Survey, Settlement Officer and Assistant Settlement Officer are conferred with judicial power under the Inam Estate (Abolition and Conversion in Ryotwari) Act, 1963 to pass judicial orders. Therefore, the second respondent has no power to uphold the order passed by the first respondent as appellate authority. The circular referred by the second respondent dated 14.02.2011 directing all District Collectors and all District Revenue Officers that if any adverse orders are passed by the Assistant Settlement Officers/Settlement Officer/Director of Survey and Settlement against the interests of the Government, the Revenue Authorities should immediately bring the facts to the knowledge of the Principal Secretary and Commissioner of Land Administration through the Collector with relevant records for necessary action. It is only an administrative order which could not give any power to the second and third respondents prohibiting them from implementing the order passed by the first respondent.

7. While pending the writ petition, the fourth to eight respondents have filed petitions to implead themselves as parties and all the petitions were allowed by this Court.

8. On perusal of the counter affidavit filed by the third respondent, revealed that the proceedings of the Commissioner of Survey and Settlement dated 05.09.2011 ordered for mutation of revenue records in respect of the property comprised in S.No.616/2B3 ad-measuring 0.35.0 Hectare in the names of the said Panduranga Reddy and the petitioner. Accordingly, the Zonal Deputy Tahsildar, Minjur ordered mutation of patta entries in Patta No.2754 in respect of S.No.616/2B3 from Water Shed (Thanneer Pandal) to in favour of the said Panduranga Reddy and the petitioner by an order dated 12.09.2011. The un-registered



mortgage deed said to have been executed by late Panduranga Reddy on 25.02.1999 in favour of Kotteswaran, since the property stands registered in the name of charitable purpose like mutt, water shed etc., cannot be put into any alienation or gift and such properties do not create any title in favour of anybody's favour.

9. It is submitted that the petitioner claimed through sale deed dated 26.10.2010 executed by the said Kotteswaran in favour of the petitioner registered vide document No.7500/2010 in respect of the property comprised in S.No.616/2B3 to an extent of 0.34 cents. This property is classified as Water Shed (Thanneer Pandal) and endowment properties do not create any title in favour of anybodies favour and therefore, the sale deed itself illegal. However, without considering the same, erroneously joint patta was issued in favour of the Panduranga Reddy and the petitioner in Patta No.2354.

10. Moreover, the order passed by the Commissioner of Survey and Settlement dated 05.09.2011 and the order passed by the first respondent dated 04.04.2012 are purely related to mutation of patta entries in nature and the said authorities are not competent to pass orders in respect of transfer of patta as per the rules laid down in Revenue Standing Order 31 for regulating the procedure to be adopted in effecting changes of registry in the revenue accounts. The relevant portion of the Revenue Standing Order 31(8) is extracted hereunder:-

"8. To whom applications should be made :
Applications for transfer of registry may be made to the collector the divisional officer or the Tahsildar or the Deputy Tahsildar or the Taluk head accountant or the revenue inspector of the firka in which the land, the registry of which it is sought to change, is situated or to registration officers when conveyance are presented for registered.

On the death of a registered holder, the karnam of the villagae should at once report the fact to the Tahsildar or Deputy Tahsildar within whose jurisdiction of the village is situated, with the names of heirs of the deceased so far as he can make them out.

The Collector, the Divisional Officer, the Tahsildar or Deputy Tahsildar, may finally dispose to all cases of transfer, however arising, and direct changes of registry either of his own motion or on the enquiry and report of an officer not lower in rank than a revenue inspector. There is no right of appeal in case of transfer of registry ordered by a Tahsildar or a Deputy Tahsildar. The Divisional Officer and

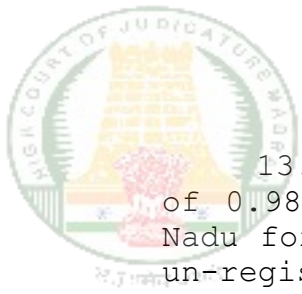


WEB COPY

Collector may, however, in the exercise of their general powers of revision, entertain revision petitions at any time against the orders of their subordinates in such case and should do so when there is any likelihood of Government being involved in a civil suit. A revenue inspector after making personal enquiry in the village where the land is situated may dispose of such of the petitions preferred to him also such of the outstanding cases of transfer ascertained by him as provided in paragraph 5(ii) supra as do not involve the formation of new sub-divisions and about which there is no dispute. Disputed cases and cases involving sub-divisions should be submitted to the Tahsildar or the Deputy Tahsildar, as the case may be, for orders. Similarly a revenue inspector will not dispose of applications for transfer of registry of interchanged minor inams, if they involve sub-divisions of Jodi or quit-rent".

11. Therefore, the order of mutation of patta entries passed by the Commissioner of Survey and Settlement dated 05.09.2011 and the order passed by the first respondent dated 04.04.2012 do not come under the purview of Revenue Standing Order 31(8). That apart, when the order dated 05.09.2011 passed by the Commissioner of Survey and Settlement, the said Panduranga Reddy died as early as on 25.12.2005. It was passed without even verifying any records and mechanically directed to issue joint patta included the name of the petitioner herein in respect of the property comprised in S.No.616/2B3 ad-mearsuing 0.35.0 Hectare. Further, the circular dated 14.02.2011 issued by the Principal Secretary and Commissioner of Land Administration pertaining to any adverse orders passed by the Assistant Settlement Officers/Settlement Officer/Director of Survey and Settlement against the interests of the Government, the Revenue Authorities should immediately bring the facts to the knowledge of the Principal Secretary and Commissioner of Land Administration through the Collector with relevant records for necessary action.

12. Therefore, there is legal impediment and as such, the second and third respondents rightly rejected the claim of the petitioner. In fact, the subject lands comprised in S.Nos.600/2, 616/2, 616/2B, 616/2B1, and 616/2B3 stood as Water Shed (Thanneer Pandal). The said Panduranga Reddy was appointed temporarily for the administration of the Water Shed (Thanneer Pandal) lands. The said lands were allocated for the purpose of providing water facilities to the pilgrims. However, the said Panduranga Reddy sold a portion of land stood in the name of Water Shed (Thanneer Pandal) in favour of one Kotteswaran.



13. In fact, as stated supra, part of the land to an extent of 0.98 cents were already acquired by the Government of Tamil Nadu for public purpose. The said Kotteswaran on the strength of un-registered mortgage deed issued possession-cum-sale receipt in favour of the petitioner in respect of the property comprised in S.No.600/2 measuring to an extent of 0.14 cents and the property comprised in S.No.616/2 measuring to an extent of 2.00 acres. Prior to the order passed by the Commissioner of Survey and Settlement dated 05.09.2011, the patta stood registered in the name of Water Shed (Thaneer Pandal) in Patta No.1155 for which the property comprised in S.Nos. 600/2, 616/2B, 616/2B1, 616/2B2 and 616/2B3. The impleading respondents also objected the claim of the petitioner, since the subject lands are used by all general public and the petitioner is never in possession and enjoyment of the same.

14. Moreover, the property comprised in S.No.600/2 ad-measuring 0.14 cents and the property comprised in S.No.616/2 ad-measuring to an extent of 2.00 acres stood as Patta No.1626, Manager for the time being for the purpose of water shed. In the document of appointing trustees for Prasanna Vinayagar Temple and maintenance of the properties in Kondakarai H/o Vallur Village registered on 10.05.1921 in document No.1101/1921 in S.No.150 measuring to an extent of 1.65 acres, S.No.600/2 measuring to an extent of 0.14 cents and S.No.616/2 measuring to an extent of 2.00 acres had been described as water manyams in B-Schedule. These lands were recorded as charitable inam lands in the above Revision Survey and Re-settlement Register of Vallur Village. The said lands have been taken by the Government on 15.02.1965. After completion of inam settlement, the subject lands stood registered in the name of Water Shed (Thaneer Pandal) in Patta No.1155. Therefore, this Court finds no illegality or infirmity in the orders passed by the second and third respondents. Hence, this Writ Petition is devoid of merits and it is liable to be dismissed.

15. Accordingly, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

dm



To

1. The Assistant Settlement Officer (North),
Survey and Settlement Department,
Survey House,
Chepauk,
Chennai - 600 005.

2. The Tahsildar,
Ponneri Taluk,
Thiruvallur District.

3. The Revenue Divisional Officer,
Ponneri,
Tiruvallur District.

+1cc to Mr.G.Mutharasu, Advocate, S.R.No.60464

+1cc to Mr.M.Kempuraj, Advocate, S.R.No.60847

+1cc to Mr.V.R.Appaswamee, Advocate, S.R.No.61232

+1cc to Mr.M.Velmurugan, Advocate, S.R.No.60435

+1cc to Mr.R.S.Anandan, Advocate, S.R.No.60586

+1cc to the Special Government Pleader, S.R.No.60282

W.P.No.22937 of 2015

GJ(CO)
RLP(07/12/2021)