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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 19.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.24012 of 2018

R.Govindasamy

... Petitioner

-Vs-

1. The Revenue Divisional Officer
Revenue Divisional Office
Thiruvannamalai District.
2. The Tahsildar
Thandrapattu Taluk
Thiruvannamalai District.
3. The District Collector
Thiruvannamalai District.

..

Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order Na.Ka.A3/ 6551/ 2018 dated 28.06.2018 from the file of the 1st respondent quash the same and issue consequential direction directing the respondent to conduct proper survey of the properties which comprised in survey No. 54/ 2B of Kuberapattinam Village Meimuthanoor Madhur Thandarampattu Taluk Thiruvannamalai District measuring to an extent of Acre 5.50 Cents to find out the correct sub division for the correct Pattadhars which were wrongly classified by the respondents as Grama Natham and to grant patta to and in favour of the petitioner in respect of 24 cents in Survey No.54/2B1 with mentioning of specific extents and four boundaries and also grant Patta to and in favour of the petitioner in respect of Acre 1.02 Cents in Survey No.54/2B to B96, consequently direct the respondents to allot alternative land to an extent of Acre 1.26 Cents to the petitioner in the same village and grant Patta to the same.

For Petitioner : Mr.N.Muthu Krishnan



For Respondents : Ms.Akila Rajendran,
Government Counsel

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O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order Na.Ka.A3/ 6551/ 2018 dated 28.06.2018 from the file of the 1st respondent quash the same and issue consequential direction directing the respondent to conduct proper survey of the properties which comprised in survey No. 54/ 2B of Kuberapattinam Village Meimuthanoor Madhur, Thandarampattu Taluk Thiruvannamalai District measuring to an extent of Acre 5.50 Cents to find out the correct sub division for the correct Pattadhars which were wrongly classified by the respondents as Grama Natham and to grant patta to and in favour of the petitioner in respect of 24 cents in Survey No.54/2B1 with mentioning of specific extents and four boundaries and also grant Patta to and in favour of the petitioner in respect of Acre 1.02 Cents in Survey No.54/2B to B96 or if it is not possible, anyway, direct the respondents to allot alternative land to an extent of Acre 1.26 Cents to the petitioner in the same village and grant Patta to the same.

2.The landed property to the extent of 5.50 Acres at S.No.54/2B at Kuberapattinam Village, Meimuthanoor Madhur Village, Thandarampattu Taluk, District was purchased by the petitioner's father Ramasamy on 23.03.1961 by a registered sale deed No.822 of 1961 on the file of Sub Registrar, Sengam.

3. Out of the 5.5 Acres of land, in the year 1973, an extent of 2.30 Acres had been acquired under the provisions of the Tamil Nadu Occupants of Kudiyiruppu (Conferment of Ownership Act) 1971 and had been given to 79 Kudiyiruppudars by subdividing those lands in S.No.54/2B-3 to 54/2B-95. The award dated 31.03.1973 in Award No.2 of 1973 for a sum of Rs.86.50/- was also passed and according to the respondents, the award amount has also been paid. However, according to the petitioner, the said award amount has not been paid.

4. Subsequently, an extent of 1.94 Acres out of the total 5.50 Acres have been sold by the petitioner's father to various individuals by way of Sale Deeds. Therefore, the remaining land is 1.26 Acres.

5. Insofar as this 1.26 Acres of land is concerned, according to the petitioner, it has never been exploited or sold



or third party right has been created either by the petitioner's father or subsequently by the petitioner. Therefore, the petitioner is entitled to get Patta for this 1.26 Acres of land, ie., the remaining land in the total extent of 5.50 Acres in Survey No.54/2B and therefore, in this regard, in order to get Patta, the petitioner had given a representation / application to the Tahsildar concerned, who rejected the same, as against which he preferred an appeal to the Revenue Divisional Officer, Tiruvannamalai, who also, after having considered the plea of the petitioner and after considering the report submitted in this regard by the Tahsildar concerned, has rejected the plea of the petitioner by an order dated 28.06.2018. Challenging the said order, the present writ petition has been filed with the aforesaid prayer.

6. Heard Mr.N.Muthu Krishnan, learned counsel for the petitioner, who would submit that, the total land of 5.50 Acres was purchased by the petitioner's father in the year 1961. This factor is not controverted and has been admitted by the respondents.

7. When that being so, the petitioner being the son of the original owner Ramasamy from whom he inherited the property, has become the owner of the entire 5.50 Acres.

8. Out of the 5.50 Acres, 2.30 Acres had been taken under the said Act referred to above for 79 Kudiyirupputars in 1973. This fact, even though it was claimed that award was passed and the award amount was also paid, absolutely there is no proof to the same that it has been paid and therefore, till date according to the petitioner, the petitioner is the owner of the said 2.30 Acres of land also.

9. Be that as it may. Learned counsel for the petitioner would further submit that, the land to the extent of 1.94 Acres has been sold by the petitioner's father to various third parties and the remaining land to the extent of 1.26 Acres is still there out of the entire extent of 5.50 Acres. Therefore, for the 1.26 Acres, the petitioner is entitled to get separate Patta as he has inherited the property from his father. Therefore, the said request of the petitioner ought not to have been rejected by the Tahsildar as well as the Revenue Divisional Officer through the impugned order. Hence, the learned counsel for the petitioner seeks the indulgence of this Court to quash the impugned order and to give a consequential direction to the Revenue Divisional Officer concerned to issue Patta in favour of the petitioner for the said 1.26 Acres.

10. Per contra, Ms.Akila Rajendran, learned Government Counsel appearing for the respondent, by relying upon the



counter affidavit filed by the respondent Tahsildar as well as the written instructions given by the Revenue Divisional Officer in Lr.No.A3/6551/2018 dated 16.07.2021 has submitted that, insofar as the remaining land of 1.26 Acres are concerned, 0.24 Cents is being used as Canal and Village Site and 1.02 Acres are classified as Natham Poramboke, Temple, Overhead Tank and Fair Price Shop. Those lands have been categorised as Natham Poramboke by a classification made by the Tahsildar vide his proceedings dated 16.04.1977 and the same since has not been questioned, the said position had been continued and reiterated during the Natham Settlement Survey taken place in the year 1995 and if at all in this regard the petitioner or his father had any grievance with regard to the classification of the 1.26 Acres as Natham Poramboke land, the same could have been raised in the year 1995 immediately after the said Survey. However, no such objection has been registered either by the petitioner's father or by the petitioner.

11. In this regard, the learned Government Counsel has relied upon the following instructions given by the respondent Revenue Divisional Officer.

" An extent of 2.30 acres out of 5.50 acres of patta lands of the father of the petitioner has been confermented (sic) as Kudiyiruppu pattas by the Revenue Divisional Officer, Tiruvannamalai as authorised officers under the Tamilnadu Occupants of Kudiyiruppu (Conferment of Ownership) Act, 1971 in his Award No.2/73 Dt:31.3.1973 to 79 Kudiyiruppudars at new subdivided S.No.54/2B3-54/2B95, excluding subdivision 54/2B11, 14, 17, 18, 25, 39, 40, 41, 57, 66, 73, 74, 75 and 86. All the above kidiyiruppudars occupied the sites prior to 19.6.1971 (Before commencement of the Act). The pattadars has not raised objection for the above conferment. The above sites have been rightly classified as village site (Natham) poramboke. The compensation for the above conferment was arrived at Rs.86.05, which might have been paid since no claim by the petitioner. The connected file of the Revenue Divisional Officer, Tiruvannamalai has been destroyed due to efflux of time and not available for verification.

However, copy of the above Award as since been produced by the petitioner and sent herewith.

4) The claim of the petitioner is that the patta for their lands Survey No.54/2B Melmuthanur Village, have been transferred in some other persons name and that may be retransferred to them. As per the proceedings of the Tahsildar, Thandrapattu the status of the land at Survey No.54/2B referred to above are as follows.



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Details	Acre
a) Total extent of land at Survey No.54/2B	5.50
b) Extent covered by conferment under Tamilnadu Occupation of Kudiyiruppu (Conferment of Ownership Act, 1971)	2.30
c) House sold by the father of the petitioner to various persons	1.94
d) Land being used as canal and village site	0.24
e) Land classified as Natham Patta, Temple, Over Head Tank and Fair Price Shop	1.02
Total	5.50

The petitioner is aware of the land conferred to Kudiyirupputadars and sole by his father. Rest of the land as classified as Natham site during the Natham Settlement Scheme finalised during the year 1995. If there is any objection for such classification, the petitioner or his father would have filed appeal before competent authority within the appeal time. If the petitioner wants to object for the Natham Settlement as stated above, he can file representation separately before competent authority ie., Commissioner Land Administration, Chennai to redress his grievance.

5) In the above circumstances, the petitioner's prayer in the above writ petitions could not be complied. This as to be highlighted in the Counter Affidavit to be filed in W.P.No.24012/2018. I therefore request to appraise the above position before the High Court, when the Contempt Petition and W.P is taken up for next hearing and get next adjournment of 15 days to prepare Draft Counter Affidavit and file before the High Court."

12. I have considered the submissions made by the learned counsel on either side and have perused the materials placed before this Court.

13. As per the details given through the written instructions of the respondent Revenue Divisional Officer, out of the total extent of 5.50 Acres, 2.30 Acres had already been taken under the Tamil Nadu Occupants of Kudiyiruppu (Conferment



of Ownership Act) 1971 and Patta had been issued to the 79 Kudiyiruppudars as early as in the year 1973 itself. Moreover, the petitioner also, though raised a claim that, the Award amount has not been paid to the petitioner for the said land of 2.30 Acres taken under the said Act, the petitioner has not raised the issue as against such acquisition made in the year 1973.

14. Insofar as the remaining land is concerned, 1.94 Acres of land admittedly has been sold by the petitioner's father and the petitioner to various individuals by registered Sale Deeds in the years 1987, 1988 and 1992 and therefore, the said lands have been fully utilised or enjoyed by the petitioner's father or the petitioner.

15. Therefore, the remaining extent of 1.26 Acres, which is in dispute, for which the petitioner seeks Patta, has been rejected through the impugned order.

16. Insofar as the said 1.26 Acres of the land is concerned, it is the claim of the respondents that, by a proceedings dated 16.04.1977, the Tahsildar concerned had taken the said land to the extent of 0.71 Cents by making a subdivision and classified it as Street Poramboke.

17. There is no document filed before this Court on behalf of the petitioner that, the said classification done in the year 1977 had been questioned.

18. Moreover, in the year 1995 when the Natham Settlement Survey was taken, by following the earlier proceedings of the Tahsildar dated 16.04.1977, the remaining land to the extent of 1.26 Acres has been classified as Natham Poramboke in the village records and accordingly the said 1.26 Acres had been given for various utilities like Street Poramboke, School, Fair Price Shop etc., This has been clearly stated both in the impugned order as well as the instructions issued by the Revenue Divisional Officer.

19. In this context, it is further stated by the Revenue Divisional Officer in the instructions that, if at all the petitioner has got any grievance over the alleged classification of 1.26 Acres as village Natham Poramboke or Street Poramboke, objection could have been raised then and there or at least at the time of the Natham Settlement Survey in the year 1995, objection could have been raised by the petitioner before the Land Commissioner. However, no such objection has been admittedly raised by the petitioner.

20. By stating all these instructions, the Revenue



Divisional Officer has further stated that, if the petitioner wants to object the Natham Settlement Survey as stated above, he can file a representation separately before the competent authority ie., the Commissioner for Land Administration, Chennai to redress his grievance.

21. Therefore, by making these written instructions, the Revenue Divisional Officer has given an opening for the petitioner to make a proper objection or representation to the Land Commissioner as against the classification of 1.26 Acres of land as Natham Poramboke or Street Poramboke. Such an opportunity can very well be utilised by the petitioner and in this regard the petitioner can very well make a representation or objection to the Land Commissioner challenging the classification made through the Natham Settlement Survey to the extent of 1.26 Acres knowing well that it is a patta land of the petitioner's father subsequently inherited by the petitioner.

22. In view of the aforesaid factual matrix, this Court feels that, there is nothing wrong in the respondent Revenue Divisional Officer rejecting the grant of separate patta to and in favour of the petitioner through the impugned order for the said 1.26 Acres of land therefore this Court is inclined to pass the following order.

- That the impugned order is sustainable and therefore the petitioner cannot successfully challenge the same. Accordingly, the impugned order is confirmed for the time being. Therefore, on that account, the writ petition is liable to be rejected.
- However, it is open to the petitioner to make an objection / representation to the Commissioner of Land Administration, Chennai to redress his grievance as against the classification of the 1.26 Acres of land in the said Survey No.54/2B referred to above as Natham Poramboke or Street Poramboke, where several public utility services have been promoted, knowing well that the said land of 1.26 Acres also belongs to the petitioner, as the title over the property in respect of the said land having been accepted by the Revenue Authorities even in the impugned order, the said issue can very well be agitated as indicated above.
- Once such objection or representation is made to the Land Commissioner, Chennai, he shall consider and decide the same on merits and in accordance with law after giving an opportunity of being heard to the petitioner and pass



orders within a period of three months thereafter.

23. With these directions, this writ petition is dismissed.
No costs.

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Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Revenue Divisional Officer
Revenue Divisional Office
Thiruvannamalai District.
2. The Tahsildar
Thandrampattu Taluk
Thiruvannamalai District.
3. The District Collector
Thiruvannamalai District.

+2ccs to Mr.N.Muthukrishnan , Advocate, S.R.No.34216

+1cc to the Government Pleader, S.R.No.34971

W.P.No.24012 of 2018

KV(CO)
SU(14/09/2021)