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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2021

PRONOUNCED ON : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.18362 OF 2018

AND

W.M.P.NO.21672 OF 2018

1. Kanthabai
2. Usha
3. B.Shankar
4. B.Giridharan

... Petitioners

-Vs-

1. The Additional Chief Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The Settlement Officer,
Office of the Settlement Officer,
Survey and Settlement Department,
Survey House, Ezhilagam,
Chennai - 600 005.
3. The District Collector,
Office of the District Collector,
Kancheepuram District - 631 501.
4. The District Revenue Officer,
Office of the District Revenue Officer,
Kancheepuram District - 631 501.
5. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Chengalpattu - 603 001, Kancheepuram District.
6. The Tahsildar (Additional Headquarters),
Tiruporur Taluk, Tiruporur - 603 110,
Kancheepuram District.



7. The Managing Director,
M/s. Standard Fire Works (P) Ltd.,
1/3 Thiruthangal Road,
Madurai District.

... Respondents

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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 record of fourth respondent culminating in the order dated 09.06.2018 made in R.C.No.13998/17/N4 and quash the same and consequently direct the third respondent to correlate the Paimash Nos.866, 867, 868/1 to S.No.255/2 and Paimash numbers 844, 846, 847 and 848 to S.No.214 P as per the revenue records and reverse the entry effected to survey No.255/2 from "Anadheenam" to Ryotwari land and grant patta in favour of the petitioners with reference to Survey No.255/2 relateable to Paimash Nos.866, 867, 868/1.

For Petitioners : Ms.G.Thilagavathi
Senior Counsel,
For Mr.D.Kanagasundaram

For Respondents
For R1 to R6 : Mr.M.R.Gokul Krishnan
Government Advocate.

For R7 : Mr.AR.Ramanathan

ORDER

The Writ Petition has been filed to call for the records of the fourth respondent culminating in the order dated 09.06.2018 made in R.C.No. 13998/17/N4 and quash the same and consequently direct the third respondent to correlate the Paimash Nos.866, 867, 868/1 to S.No.255/2 and Paimash numbers 844, 846, 847 and 848 to S.No.214 P as per the revenue records and reverse the entry effected to survey No.255/2 from "Anadheenam" to Ryotwari land and grant patta in favour of the petitioners with reference to Survey No.255/2 relateable to Paimash Nos.866, 867, 868/1.

2. The case of the petitioners is that the land comprised in survey No.255/2 ad measuring 9.29 acres in Pudupakkam Village, Tiruporur Taluk, Kancheepuram District is owned by the petitioners' predecessors and thereafter inherited by their father Bangaru Raja. After his demise, the petitioners are being the legal heirs have not continued with agricultural activities and the land remains vacant. However, they are in possession till date. The present survey number correlated in the revenue



records by virtue of their paimash Nos.866, 867, 868-1 part. The said paimash numbers are reflected in the Survey Land Register (herein after called as "SLR") maintained by the office of the second respondent.

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3. While Updating Registry (UDR) by the revenue authorities as contemplated under the provisions of Tamil Nadu Estate (Abolition & Conversion into Ryotwari) Act, 1948 (herein after called as "the Act"), without issuing any notice to the petitioners or to their father, the entries in the SLR has been altered as "Anaadheenam" and name of their father has been circled reflecting a correction of the entries in the SLR. Therefore, the petitioners made representations on 05.01.2015 to reverse the entries, which are made unilaterally as to the character of the land without following principles of natural justice.

4. Since the same was not considered by the revenue authorities, the petitioners filed a Writ Petition before this Court in W.P.No.16376 of 2017 and this Court by an order dated 13.11.2017 directed the respondents 4 to 6 herein, to consider the petitioners' representation and pass orders on merits and in accordance with law. As directed by this Court, the fourth respondent passed the order impugned in this Writ Petition, thereby rejecting the claim of the petitioners as time barred. In the impugned order, the fourth respondent further observed that, the seventh respondent filed suit in O.S.No.332 of 2017 on the file of the District Munsif Court, Chengalpattu, in respect of the subject property and after disposal of the said suit, the sixth respondent was directed to send a detailed report on the allegations pertaining to the subject land for taking further action to safe guard the interest of the Government in the said land. Aggrieved by the said order, the present Writ Petition.

5. The learned Senior Counsel appearing for the petitioners would submit that while examining the revenue records, the petitioners noticed that the revenue records stood so far as the correlation of paimash numbers to survey numbers, when the proceedings under the Survey and Settlement was done under the provisions of the Act, as follows :-

Sl.No	Pimash No	Survey No.	Extent of Land
I	255/2 P	866	Measuring 4.79 acres
	255/2 P	867	Measuring 3.72 acres
	255/2P	868-1	Measuring 5.52 acres
			Total - 14.03 acres



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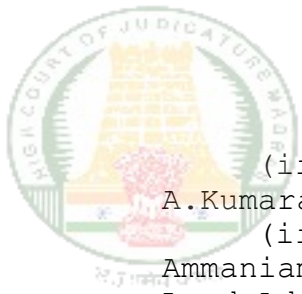
Sl.No.	Pimash No	Survey No.
II	214 p	844
	214/p	846
	214/p	847
	214/p	848

The entries of the survey number in the revenue records occurred for Updating Registry (UDR) under the Act, and the entire procedure contemplated under the Act had not been followed by the authorities concerned. If the second respondent had acted inconsonance with the provisions of the statute, the ancestors of the petitioners would have had an opportunity of hearing and they made available sufficient records before the second respondent for finalization the entries at the relevant point of time.

5.1. She further submitted that the revenue register maintained by the revenue authorities for classification of the land, which was called as Survey Folio (S.F.1) of Pudhupakkam Village contains the name of the petitioners' ancestors insofar as the entry in survey No.255/2 is concerned ad measuring 9.29 acres, which had been correctly correlated to paimash Nos.866, 867, 868/1, which has thereafter been updated in the year 1961. The failure to carry forward the same in the subsequent records and recorded about the classification of the land of their forefather as "Anaadheenam" are thoroughly unsustainable.

5.2. She also submitted that if the revenue is able to establish the survey numbers to which paimash Nos.866, 867, 868 have been correlated, where upon it would be clear that survey No.255/2 does not form part of the same as the land purchased by the seventh respondent, as the same is confined to paimash Nos.844, 846, 847 and 848 even as per their document of title. These piamash numbers are correlated in revenue records in survey No.214 P, as per the revenue records. Further, the seventh respondent has filed suit for declaration and injunction. It is not an impediment for the fourth respondent to decide the issue. This Court specifically directed the fourth respondent to consider the petitioners' request on merits and in accordance with law. Therefore, the fourth respondent ought not to have rejected the request made by the petitioners, as if, it is time barred and taking shelter under the suit filed by the seventh respondent herein. In support of her contention, she relied upon the judgments of this Court as follows :

(i) Order dated 17.03.2010 in W.P.No.2590 of 2009 batch cases - G.Ramachandran and ors Vs. The Additional Chief Secretary to Government and anr.



(ii) Order dated 18.10.2011 in Contempt P.No.665 of 2011 - A.Kumarasamy Vs. Hemand Kumar Sinha and ors

(iii) Order dated 31.01.2013 in W.P.No.27887 of 2010 - Ammaniammal (died) vs. The Principal Secretary & Commissioner of Land Administration and ors.

(iv) Order dated 06.07.2021 in W.P.No.22374 of 2016 batch - Dilli & anr Vs. The Principal Secretary & Commissioner of Land Administration and ors.

6. The learned counsel appearing for the seventh respondent filed counter and submitted that the representation of the petitioners to grant Roytwari patta has to be considered only on the provisions of the Roytwari Act. Further G.O.No.1300, Revenue Department dated 30.04.1971 lays down the requirements for the person claiming patta under the Roytwari Act, provided that they are in possession of the land, subject to limitation. It also clarified that civil Court can decide the issue, when there are rival claims. The petitioners claimed patta in respect of the land comprised in survey No.255/2 ad measuring 9.29 acres. Whereas the patta stood in the name of the seventh respondent and the seventh respondent is in possession and enjoyment of the same for the past 15 years.

6.1. He further submitted that admittedly the petitioners have not sought for Ryotwari patta under the provisions of the Ryotwari Act, within the time limit prescribed by the Act. The G.O.Ms.714 dated 29.06.1987 provides limitation for filing any application viz., on or before, 20.08.1987. Therefore, there is no scope for entertaining the petitioners' request under the Ryotwari Act. The fourth respondent rightly rejected the claim of the petitioners, since the petitioners have set over the matter for more than 60 years. The petitioners failed to file any documents to sustain that the subject land belonged to their father. The petitioners did not file any appeal before the authority within the stipulated time as provided under the Rules in Ryotwari Act. As no appeal has been filed, the order as to its classification has become final as per Section 64(C)(1) of the Ryotwari Act. As per the said G.O.Ms.714 dated 29.06.1987, no appeal or revision can be entertained after 20.08.1987.

6.2. He further submitted that the subject properties are subdivided into survey Nos.255/2A and 2B. The land in Survey No.255/2A ad measuring 4 acres and 33 cents owned by one Gokilammal @ Gokilam and she sold out the same to one Fathima Usman under the sale deed dated 15.12.1986, registered vide document No.2767/1986. In turn, she conveyed the said land in favour of the seventh respondent herein by the sale deed dated 29.11.2001 registered vide document No.2592/2001. The seventh respondent also purchased the land to an extent of 4.60 acre by



the registered sale deed dated 18.02.2003 vide document No.367/2003 from the Rural Organisation for Action and Development represented by one Mohammed Usman.

6.3. After the purchase, the seventh respondent company is in absolute possession and uninterrupted possession of the subject properties. The seventh respondent also was issued patta No.237. Therefore, the seven respondent is a bonafide purchaser and he is in possession and enjoyment of the subject properties. Further the seventh respondent has filed a suit in O.S.No.332 of 2017 on the file of the District Munsif Court, Chengalpattu, as against the petitioners and the revenue authorities for permanent injunction. In support of his contention, he relied upon the following judgments :-

(i) 2003 (10) SCC 578 - K.Ethirajan Vs. Lakshmi and Ors

(ii) CDJ 2016 MHC 5553 - M.Sethamarai Vs. The Settlement Officer, Chennai.

(iii) CDJ 2012 MHC 2731 - Kanniyammal & anr Vs. The Additional Chief Secretary & ors.

(iv) 2005 (4) CTC 9 - M.E.A.Mohamed Ali & ors Vs. The District Revenue Officer & ors

(v) Order dated 06.07.2021 in W.P.No.22374 of 2016 batch - Dilli & anr Vs. The Principal Secretary & Commissioner of Land Administration and ors.

7. Heard Ms.G.Thilagavathi, learned Senior Counsel appearing for the petitioners, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1 to 6 and Mr.A.R.Ramanathan, learned counsel appearing for the seventh respondent.

8. According to the petitioners, the land comprised in survey No.255/2 was originally identifiable in the revenue records by virtue of their paimash Nos.866, 867, 868-1(part). It reflected in the SLR maintained by the second respondent. While Updating Registry by the revenue authorities as contemplated under provisions of the Act, they recorded as "Anaadheenam" and their father name Bangaru Raja has been circled in the SLR issued by the third respondent. Admittedly, the petitioners or their father had not served with any notice, before the entries made in the SLR ie., Survey Land Register. Therefore the petitioners had sent representation on 05.01.2015, prayed for reversal of the entries, which were made unilaterally in respect of the character of the land without following the principles of natural justice. Whereas, the seventh respondent has purchased the land comprised in Survey No.255/2 after subdivision as 255/2A and 2B by the registered sale deed dated 29.11.2001 and also obtained patta bearing No.237.



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9. Further, the petitioners also filed a Writ Petition before this Court in W.P.No.16376 of 2017 and this Court by an order dated 13.11.2017 passed the following orders :-

"3. The impugned communication is nothing but an entry made in the SLR Register maintained by the respondents. According to the petitioners, an entry made in respect of Survey No.255/2, Pudupakkam Village, Tiruporur Taluk, Kancheepuram District in the SLR Register is not correct and therefore, it has to be rectified by reversing such entry. This Court, at this stage, is not expressing any view on the merits of the claim made by the petitioners, as it is for the authorities concerned to look into the grievance of the petitioners, which, in fact, was made through a representation dated 05.01.2014. It is stated that the said representation is still pending. Accordingly, without expressing any view and the merits and the contentions raised by both parties, this writ petition is disposed of, only with a direction to the respondents 4 to 6 to consider the said representation of the petitioners and pass orders on the same on merits and in accordance with law, after giving due opportunity of hearing to the petitioners and also other parties interest in this matter, in respect of the above said survey number. Such exercise shall be done by the respondents 4 to 6 within a period of 8 weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petitions are closed."

Accordingly, this Court specifically directed the fourth respondent to consider the request of the petitioners on merits and in accordance with law.

10. On perusal of the impugned order, the fourth respondent rejected the request of the petitioners for two reasons. The first one is that the claim of the petitioners is barred by limitation as per the G.O.Ms.No.714 dated 29.06.1987 and the second one is that the seventh respondent filed suit in O.S.No.332 of 2017 on the file of the District Munsif Court, Chengalpattu and it will be subjudice, if the above exercise is



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done at present. Further the fourth respondent directed the sixth respondent that, immediately after finalisation of the suit, to send detailed report on the allegation pertaining to the subject land, for taking necessary further action to safeguard the interest of the government in the said land.

11. In this regard, the learned Senior Counsel appearing for the petitioners relied upon the Order of this Court dated 17.03.2010 in W.P.No.2590 of 2009 batch cases in the case of G.Ramachandran and ors Vs. The Additional Chief Secretary to Government and anr., as follows :-

"11.A perusal of the said G.O.Ms.No.714 dated 29.06.1987 makes it crystal clear that the said order deals in respect of prescription of time limit for preferring appeals and revisions as per the amendment made to various rules. It is also pertinent to note that as far as the cases on hand are concerned, the petitioners preferred only the original applications seeking for the relief of grant of pattas and by no stretch of imagination, the said applications could be construed to be an appeal. Therefore, this court has no hesitation to hold that G.O.ms.No.714 [CT & RE] Department dated 29.06.1987 is not at all applicable to the facts of the instant cases and the 1st respondent has wrongly placed reliance on such Government Order for setting aside the orders passed in favour of the petitioners by the Assistant Settlement Officer, Tiruvannamalai for granting the relief of pattas in their favour. It is needless to state that there is absolutely no statutory rule or provision available prescribing any time limit for claiming grant of pattas.

12.The learned senior counsel appearing for the petitioners also rightly placed reliance on the unreported order of this court in WP.No.13000/2009 dated 17.11.2009 in respect of the identical order passed by the very same 1st respondent relating to the same question involved in the above writ petitions, more particularly, in respect



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of the reliance placed on G.O.ms.No.714 dated 29.06.1987. The learned Single Judge, in that matter, has categorically held that there is absolutely no statutory rule or provision available for prescribing any time limit for preferring application for grant of patta.

13. In view of the aforesaid reasons, this court is constrained to set aside the impugned orders passed in RP.Nos.4,5,8,9,6 & 7/2008 by the first respondent dated 12.01.2009 and the writ petitions are allowed. No costs. Consequently connected miscellaneous petitions are closed."

In the above case, this Court referred the G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, dated 29.06.1987, which deals in respect of prescription of time limit to file appeal or revision as per the amendment made to various rules. Further the petitioners in that Writ Petition had made request to issue patta as such the said G.O., is not applicable to the petitioners, while considering their application for issuance of patta.

12. In the case on hand, the fourth respondent referred the G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, dated 29.07.1987 and rejected the request of the petitioners as time barred. On perusal of the request made by the petitioners revealed that they prayed to correct the entries in the S.F and Survey Land Record pertaining to Survey No.255/2 to an extent of 9.29 acres situated at No.19, Pudupakkam Village, Thiruporur Taluk and to issue patta. Therefore, the above judgment is squarely applicable to the case on hand and the said G.O., is not applicable to the petitioners' case.

13. The learned Senior Counsel appearing for the petitioners submitted that the land purchased by the seventh respondent is confined to paimash Nos.844, 846, 847 and 848. These paimash numbers are not correlated with the land comprised in Survey No.255/2. Further the petitioners did not file any appeal and they made representation for reversal of the entries and seeking patta. In this regard she relied upon the order dated 31.01.2013 passed by this Court in W.P.No.27787 of 2010 in the case of Ammaniammal (died) & ors Vs. The Principal Secretary & Commissioner of Land Administration & ors, in which, this Court held that originally the SLR shown as waste and no patta number has been assigned. The entries in the register for the said survey number only shown in the name of that petitioner and



subsequently it was rounded off and classified as Tharisu. The said entries made in the year 1955. Further there is no proof to show that the land owner was issued notice and offered an opportunity to submit their objections.

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14. In the present case, the petitioners produced a copy of the SLR issued by the third respondent dated 21.04.2014 and it revealed that the survey No.255/2 carried out to paimash Nos.866, 867, 868-1, which stood in the name of the petitioners' father viz., Bangaru Raja and thereafter corrected as Anaadheenam. Admittedly, the petitioners or their father were not served with any notice and affording no opportunity to submit their objections for change of records. Therefore, the above judgment is squarely applicable to the case on hand and the respondents failed to follow the procedure.

15. It is also seen that the seventh respondent filed suit in O.S.No.332 of 2017 on the file of the District Munsif Court, Chengalpattu, as against the petitioners and others for permanent injunction in respect of the subject property and it is pending. It is relevant to note that in respect of the property comprised in survey No.254/2 situated at Pudupakkam Village, Tiruporur, viz., adjacent land to the subject land, one Dilli and Pattu had filed a Writ Petition before this Court as against the respondents herein in W.P.No.22374 of 2016 to set aside the order passed by the fourth respondent herein and consequently direct them to reverse the entries in the 'A' register and Chita register insofar as the survey No.254/2, from Anaadheenam to patta land, as prayed in the present Writ Petition.

16. In the said case, in connected Contempt Petition in Cont.P.No.1691 of 2015, the first respondent herein filed affidavit by stating that the land in survey No.254/2 stood in the name of the Standard Fire Works Limited in Patta No.13. Upon scrutiny of the connected records, it was found that the subject land was classified as Anaadheenam prior to Updating Registry (UDR) Scheme. It was erroneously changed as Ryotwari Land and allotted to Standard Fire Works Limited, without following any procedure. Since the fourth respondent herein is alone competent to correct the said mistake which occurred during the UDR Scheme, the fifth respondent requested the fourth respondent to correct the error which occurred during UDR scheme and recommended that the land in survey No.254/2 may be restored as Anaadheenam, as detailed in the settlement prior to UDR scheme.

17. Admittedly the suit filed by the seventh respondent for permanent injunction in respect of the subject property and not for declaration or any other relief. Therefore, the pendency of the suit is not impediment for the fourth respondent to conduct



detailed enquiry on receipt of the report from the authorities concerned, in view of the counter filed by the first respondent in the Contempt Petition in Cont.P.No.1691 of 2015. Therefore, the order passed by the fourth respondent is not inconsonant with the direction issued by this Court by an order dated 13.11.2017 in W.P.No.16376 of 2016. Hence the impugned order is liable to set aside.

18. In view of the above discussions, the order dated 09.06.2018 in R.C.No.13998/17/N4 passed by the fourth respondent herein, is hereby set aside and the matter is remanded back to the fourth respondent for fresh consideration. It is made clear that the pendency of the suit filed by the seventh respondent is not impediment to pass orders. The fourth respondent is directed to issue notice to the petitioners and the seventh respondent and call for the records from other revenue officials with regard to the reversal of land from Anaadheenam and pass orders on merits and in accordance with law within a period of twelve weeks from the date of the receipt of a copy of this Order. The petitioners and the seventh respondent are at liberty to submit all the relevant documents to substantiate their respective claims. Till the order passed by the fourth respondent, the learned District Munsif, Chengalpattu, is directed to keep the suit in O.S.No.332 of 2017 in abeyance. Subject to the order passed by the fourth respondent, the seventh respondent can pursue the suit in accordance with law.

19. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Additional Chief Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.



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2. The Settlement Officer,
Office of the Settlement Officer,
Survey and Settlement Department,
Survey House, Ezhilagam,
Chennai - 600 005.
3. The District Collector,
Office of the District Collector,
Kancheepuram District - 631 501.
4. The District Revenue Officer,
Office of the District Revenue Officer,
Kancheepuram District - 631 501.
5. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Chengalpattu - 603 001, Kancheepuram District.
6. The Tahsildar (Additional Headquarters),
Tiruporur Taluk, Tiruporur - 603 110,
Kancheepuram District.

+2ccs to Mr.D.Kanagasundaram, Advocate, S.R.No.51070
+2ccs to Mr.AR.Ramanathan, Advocate, S.R.No.51045

W.P.No.18362 of 2018
and W.M.P.No.21672 of 2018

VBM(CO)
PM/25/10/2021