



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA  
AND  
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.4203 of 2019 and CMP.No.26175 of 2019

1. D.Gopal
2. Ponnusamy
3. P.Pappathi
4. P.Saravanakumar
5. P.Sakunthala
6. P.Poornima

...Appellants

-vs-

1. The Additional Chief Secretary and  
Commissioner of Land Administration,  
Chepauk, Chennai-600 005.
2. The District Revenue Officer,  
Office of the District Revenue Office,  
Namakkal.
3. Amsavalli Selvam

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the Order of the learned Single Judge made in W.P.No.29094 of 2019 dated 16.10.2019.

Prayer in W.P.No.29094 of 2019: Writ petition filed under Article 226 of the Constitution of India for a writ of certiorari calling for the records of the impugned order made in Proceedings o.F2/5679/2018 dated 27.08.2019 passed by the first respondent and quash the said impugned order.

For Appellants : Mr.R.Thirugnanam

For Respondents: Mr.T.Arunkumar,  
1 and 2 Government Advocate



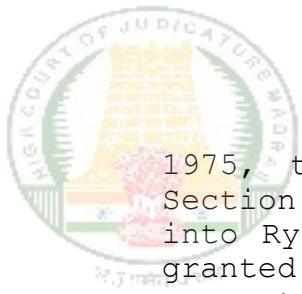
## JUDGMENT

(Judgment of the Court was pronounced by T.RAJA.J)

This Writ Appeal has been filed, challenging the correctness of the impugned order passed in W.P.No.29094 of 2019 dated 16.10.2019, wherein the learned Single Judge after perusing the impugned order dated 27.08.2019 passed by the Additional Chief Secretary-cum-Commissioner of Land Administration, Chepauk, Chennai, the 1<sup>st</sup> respondent herein in Proceedings No.F2/5679/2018 dated 27.08.2019, indicating that the appellants have claimed the property through the original assignment granted in favour of Mr.Radha Krishnan Chettiar in the year 1960 and the said assignment was subsequently cancelled by the Assistant Settlement Officer, Salem, in the year 1975, thereby finding no illegality in the impugned order dated 27.08.2019, dismissed the Writ Petition.

2.Learned Counsel appearing for the appellants would submit that originally, the patta was issued in favour of the appellants by the District Revenue Officer, Namakkal, namely, the 2<sup>nd</sup> respondent herein vide proceedings dated 06.04.1998 and after a lapse of 14 years, the 3<sup>rd</sup> respondent herein, in the capacity of Panchayat President, Pachudayampatti Panchayat, Pachudayampatti Village, Sendhamangalam Taluk, Namakkal District, made a representation to the 2<sup>nd</sup> respondent to cancel the said patta and that representation was dismissed by the District Revenue Officer, on 14.09.2012. While so, pursuant to the direction of this Court in W.P.No.4926/2013 filed by the 3<sup>rd</sup> respondent herein, the 1<sup>st</sup> respondent Commissioner of Land Administration has passed an order dated 27.08.2019, partly allowing the appeal of the 3<sup>rd</sup> respondent and remanding the matter back to the District Revenue Officer for fresh enquiry. The said order has been put to challenge in the W.P.No.29094/2019 and the learned Single Judge, while dismissing the writ petition thereby upholding the impugned order, has given liberty to the appellants to make a representation to the 1<sup>st</sup> respondent with a further direction to the 1<sup>st</sup> respondent to consider the case on merits, he pleaded.

3.Learned Counsel appearing for the appellants would further submit that each of the appellants 1 and 2 purchased the lands comprised in Survey No.109/21 to the extent of 34 ½ Cents and 15 ½ Cents, Pachudaiyampatti Village from Vedagiri Chettiar separately under the Sale Deeds dated 06.04.1981 registered as Document Nos.820 of 1981 and 819/1981 respectively in the Office of the Sub-Registrar, Namakkal, and from the date of their purchase, they have been in possession and enjoyment of their respective portion of the lands whereas the Assistant Settlement Officer, Salem had initiated necessary proceedings for cancellation of the original assignment and finally, in the year



1975, the original assignment was cancelled on the basis of Section 14-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, which shows that no Ryotwari shall be granted in respect of any private tank or Oorani. In the present case, patta kuttai was covered in Survey No.109/21A and Panchayat Well was covered in Survey No.21/B. The District Revenue Officer has ordered to retain 109/21D and 21E as Communal Poramboke in revenue records. But the said order cannot be legally sustainable for the reason that the 3<sup>rd</sup> respondent without any authority has wrongly made a representation as the Panchayat President of Pachudaiyampatti Village Panchayat after 14 years and the said representation ought not to have been allowed. Therefore, the present Writ Appeal has to be allowed, he pleaded.

4.Opposing the above prayer, learned Government Advocate appearing for the respondents 1 and 2 supporting the impugned order submitted that the writ petition filed before the learned Single Judge questioning the impugned order dated 27.08.2019 passed by the Additional Chief Secretary and Commissioner of Land Administration is not legally maintainable for two reasons, namely, firstly, it is an admitted case of the writ petitioners/appellants that the appellants 1 and 2 purchased the lands comprised in Survey No.109/21 to the extent of 34 ½ Cents and 15 ½ Cents, Pachudaiyampatti Village from Vedagiri Chettiar separately under the Sale Deeds dated 06.04.1981 registered as Document Nos.820 of 1981 and 819/1981 respectively in the Office of the Sub-Registrar, Namakkal and they have been in possession and enjoyment of the same from the date of their purchase. But much prior to their purchase, the original assignment issued in the year 1960 was cancelled in the year 1975 by the Assistant Settlement Officer, Salem. Therefore, on the date of purchase of the property by the appellants 1 and 2 in the year 1981 in view of the cancellation of the assignment order passed in the year 1975, the vendor of the appellants 1 and 2 failed to possess any ownership in the said lands. The appellants have not taken even minimum care to verify from the Sub-Registrar Office concerned as to whether there was any encroachment registered against the said land-in-question. Secondly, when the assignment order was issued in the year 1960 in favour of the original assignee, wrongly water bodies, namely, Patta Kuttai and Panchayat Well were also given to the original assignee. That was not permissible as per Section 14-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Amendment Act which came into force in the year 1974. Therefore, when Section 14-A makes it clear that no Ryotwari Patta shall be granted in respect of private tank or Oorani, the 1<sup>st</sup> respondent herein has rightly passed the impugned order. Hence, the present Writ Appeal has to be dismissed, he pleaded.



5. We also find some merits on the submissions of the learned Government Advocate appearing for the respondents 1 and 2. Since the land-in-question was originally assigned in the year 1960 in favour of the original assignee, admittedly, patta Kuttai covered in Survey No.109/21D and Panchayat Well covered in Survey No.109/21B were wrongly given to the assignee. Thereafter, Section 14-A inserted by Tamil Nadu Act 49 of 1974 came into force and subsequently, the assignment was cancelled and patta kuttai and the Panchayat Well were rightly removed from the original assignment and ordered to be registered in the revenue records accordingly. In this regard, it is relevant to extract Section 14-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 inserted by Tamil Nadu Act 49 of 1974 here under :

''[ 14-A.Ryotwari patta not to be granted in respect of private tank or oorani--(1) Notwithstanding anything contained in this Act, no ryotwari patta shall be granted in respect of any private tank or oorani.

(2) Any ryotwari patta granted in respect of any private tank or oorani under this Act before the date of the publication of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1974 in the Tamil Nadu Government Gazette, shall stand cancelled, and for purposes of compensation under this Act the private tank or oorani shall be deemed to be land in respect of which neither the landholder nor any other person is entitled to ryotwari patta under this Act.]''

In addition thereto, the learned Single Judge considering the fact that the appellants have got some grievance, gave liberty to make a representation to the 1<sup>st</sup> respondent, namely, the Additional Chief Secretary-cum-Commissioner of Land Administration, Chepauk, Chennai to be considered on merits. Therefore, we do not find any infirmity or illegality in the impugned order passed by the learned Single Judge.

6. In the result, the Writ Appeal fails and the same is accordingly dismissed thereby confirming the order of the learned Single Judge in W.P.No.29094 of 2019 dated 16.10.2019. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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

2. The District Revenue Officer,  
Office of the District Revenue Office,  
Namakkal.

+1cc to Mr.R.Thirugnanam, Advocate, S.R.No.53709

+1cc to the Government Pleader, S.R.No.53880

W.A.No.4203/2019

SSI (CO)  
RGA (25/01/2022)