

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.27358 OF 2007

M.Sonai (died)

1. Ayyakannu

2. Lakshmi

(P2 & P3 are substituted vide
order dated 05.07.2019 by this Court
made in WMP.No.5517 of 2017,
W.P.No.27358 of 2007)

.. Petitioners/LR's of the Sole

Vs.

1. Chinnakannu (Died)

2. Karuppan (Died)

3. Muniyandi

4. Ganapathy

5. Raju

6. Vijayaraman

7. Chinnayakonar (Died)

8. Tanushkodi

9. Karuppiahkonar (Died)

10. Mookayi

11. Muthupillai

12. Karuppan

13. Ganesan (Died)

14. Wendiammal
15. Revenue Divisional Officer,
Sivagangai.
16. The District Revenue Officer,
Sivagangai.
17. The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai-5.
18. C.Balu
19. K.Murugesan
20. C.Manikam
21. K.Gandhi
22. K.Sakthi
23. G.Kaliswaran
(R18 to R23 are substituted as legal heirs
of the deceased respondents 1,2,7,9 & 13
vide order dated 30.08.2010 by this Court
in W.P.No.27358 of 2007)

..Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records in the impugned order of the 17th respondent in his proceedings No.D.Dis.K4/29857/2006 dt 27.2.2007 quash the same and also direct 15th respondent to issue patta to the extent of 23.59.0 hectares comprised in S.Nos.110 and 111 situated at Kavannikarai village Sillukapatti group Sivagangai taluk to the petitioner.

For Petitioners	:	Mr.Sharath Chandran
For Respondents	:	Mr.K.Sridhar For M/s.Sridhar Associates (for RR3,5,6,8 to 12 & 14) Mr.G.Nanmaran RR15 to 17 Special Government Pleader

O R D E R

The petitioner has filed this petition seeking to quash the impugned order of the 17th respondent in his proceedings No.D.Dis.K4/29857/2006 dt 27.2.2007 and also direct 15th respondent to issue patta to the extent of 23.59.0 hectares comprised in S.Nos.110 and 111 situated at Kavannikarai village, Sillukapatti group, Sivagangai taluk, to the petitioner.

2. The case of the petitioners is that the properties comprised in S.No.110 to an extent of 8.92.5 hectares and in S.No.111 to an extent of 12.66.5 hectares situated in Kavannikarai Village, Sillukapatti Group, Sivagangai Taluk and all the properties are ancestral properties of the petitioner and he paid the revenue taxes regularly. The above properties situated in Kavannikarai Village are Kudiwaram lands and the ancestors of the petitioners have paid melvaram to the Melvaramdar. The Government abolished the Inam and took over the village under Section 26/48. However, the petitioners are in continuous possession and enjoyment of the property. The petitioner approached the tahsildar for issuance of patta and the same was objected by the respondents 5,9 and 12. Hence, the petitioner filed a suit in O.S.No.95/1978 before the District Munsif, Sivagangai and the same was decreed on 08.11.1979. Challenging the said order, the respondents 5,9 and 12 have filed appeal suit in A.S.No.117/1979 on the file of the learned Sub Judge, Sivaganga and the same was dismissed on 28.04.1982. As against the order of the lower appellate court, the respondents 5,9,12 filed a second appeal before this Court in S.A.No.1305 of 1982 and the same was also dismissed on 25.02.1992.

3. On 04.07.1995 the Tahsildar, Sivaganga recorded the joint patta in the name of the petitioner and Natarajan and 11 others. Aggrieved over the same, the petitioner filed the appeal and the same was allowed by confirming the order of the Tahsildar, however, directed the Tahsildar to find out the exact possession along with extent of the property of the petitioner and to issue separate patta in his favour. Challenging the same, the respondents 1 to 14 have preferred appeal against the said order before the 16th respondent herein. On the contrary, one Karuppiyah Konar and Malairaj filed objection petition before the 17th respondent herein stating that they are also in possession of the aforesaid property in patta No.309. The 17th respondent allowed the appeal directed the Tahsildar to issue joint patta to the petitioner along with the respondents 1 to 14. The objectors filed a statutory revision before the 17th respondent and the 17th respondent has confirmed the order passed by the 16th respondent/Revenue Divisional Officer and directed the objectors

to approach the DRO, Sivaganga. Challenging the order of the 17th respondent dated 27.02.2007, the petitioner has filed the present writ petition before this court seeking appropriate remedy.

4. The learned counsel for the petitioner submitted that all the revenue authorities have erroneously passed orders without understanding the case of the petitioner. Admittedly, the aforesaid properties are ancestral properties of the petitioner. The petitioner's ancestor are the Melvaram and they are paying the taxes to the government regularly. Based on which, the petitioner made a claim before the Settlement Officer for issuance of patta under the Inam Act. But the other persons have also made an objection before the Settlement officer. Hence, the petitioner had filed a suit in O.S.No.95 of 1978 for declaration and permanent injunction in respect of the aforesaid properties. The trial Court has also declared that the petitioner is the owner of the entire extent of the properties. Without considering all these facts, the DRO passed an order to issue joint patta in favour of the petitioner and also Karuppiyah Konar and Malairaj. The Special Commissioner and Commissioner for Land Administration have also confirmed the order of the DRO, which is against the law and the same has to be quashed.

5. The learned counsel for the some of the private respondents submitted that some of the private respondents are in possession and enjoyment of the properties in S.Nos.110 & 111 situated at Kavannikarai Village, Sivaganga Taluk. S.No.111 is vast extent of land and the petitioner claimed only for 9 items, to an extent of 3.75 acres. The private respondents have no objection for grant of patta in terms of the judgment and decree passed by the trial Court dated 08.11.1979 in O.S.No.95/1978. However, the petitioner is not entitled to claim in respect of the S.No.110 and therefore, the present writ petition is liable to be dismissed.

6. The learned Special Government Pleader appearing on behalf of the State submitted that initially the claim made by the petitioner is based on the decree in O.S.No.95 of 1978. Based on which, the Tahsildar granted relief in favour of the petitioner and however, the same was reversed by the DRO. The Special Commissioner for Land Administration have also confirmed the order of the DRO, which does not warrants any interference by this Court.

7. Heard, the learned counsel for the petitioners, the learned counsel for the some of the private respondents as well as the learned Special government Pleader appearing on behalf of the respondents and perused the materials available on record.

8. The facts of the case are not in dispute. Admittedly, the petitioner filed a suit in O.S.No.95/1978 for declaration and injunction in respect of 9 items to an extent of 3.75 acres and the same was decreed in his favour. As per the decree, the petitioner is entitled for patta in some extent and the same was not disputed by the private respondents as well as the Government counsel.

9. In view of the above discussion, this Court is setting-aside the impugned order passed by the 17th respondent viz., Special Commissioner and Commissioner for Land Administration in ref. No.D.Dis.K4/29857/2006 dt 27.2.2007 and passes the following orders:

''(i) This court directs the 15th respondent to grant patta in respect of 9 items in S.No.111 situated at Kavannikarai village, Sillukapatti group, Sivagangai taluk, as per the judgment and decree in O.S.No.95/1978 within a period of 12 weeks from the date of receipt of a copy of this order;

(ii) The other claims made by the petitioner as well as the private respondents is disputed question of facts, which cannot be granted by the revenue officials and the same has to be decided only by the competent civil forum; this Court grants liberty to the petitioner to file a separate suit with regard to the other survey numbers before the competent civil forum. The private respondents are directed to canvas all the issues including the limitation before the competent forum.

(iii) After disposal of the suit, the succeeding parties are directed to file appropriate petition/application along with a decree before the respective revenue officials with regard to the subject matter; and

(iv) On receipt of such petition/application, the revenue officials shall pass orders based on the decree passed by the trial Court.''

10. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,
Sivagangai.
2. The District Revenue Officer,
Sivagangai.
3. The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai-5.

+2ccs to M/s.K.Sridhar, Advocate, S.R.No.14541

W.P.No.27358 of 2007

AJS (CO)
RLP (30/03/2022)