IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5849 of 2009

Arulmigu Vishweswara swamy,
Vishalakshiamman, Subramania Swamy Thirukkoil,
represented by its Executive Officer,
Nallur, Tiruppur Taluk,
Coimbatore District - 641 606. ... Petitioner

Vs.

1. The Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai.

2. The Additional District Magistrate & District Revenue Officer, Coimbatore Office of the District Revenue Officer, Coimbatore.

3. The Revenue Divisional Officer, Office of the Revenue Divisional Officer, Tiruppur, Coimbatore District, Present Tiruppur District.

4. The Tahsildar, Tiruppur Taluk, Coimbatore District, Present Tiruppur District.

5. P.Venkata Subramanian.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondents culminating in the impugned order of the first respondent in D.D.is K4/R.P.60/2004 (37041/2003) dated 18.11.2008, setting aside the order of the second respondent in C.No.23180/2002, C2 dated 27.06.2003 and confirming the order of the third respondent in K.D is 9559/2001/A2 dated 08.11.2001, quash the same so far it relates to the land comprised in Survey No.292/2B as confirmed in T.D 39 and granted patta under Section 8(2)(ii) read with section 11 of the Madras Minor inams (abolition and conversion into Riotwary) Act, 1963, in S.R.No.653/68 M.I Act/Palladam taluk/ dated 17.11.1968 and direct the fourth respondent to restore and record the name of the petitioner in respect of the aforesaid land in the revenue and village records.

For petitioner	:	Mr.K.Ashok Kumar
For Respondents	:	Mr.G.Nanmaran Special Government Pleader for R1 to R4 No Appearance for R.5

ORDER

The petitioner has filed this petition to call for the records of the respondents culminating in the impugned order of the first respondent in D.D.is K4/R.P.60/2004(37041/2003) dated 18.11.2008, setting aside the order of the second respondent in C.No.23180/2002, C2 dated 27.06.2003 and confirming the order of the third respondent in K.D is 9559/2001/A2 dated 08.11.2001, quash the same so far it relates to the land comprised in Survey No.292/2B, as confirmed in T.D 39 and granted patta under Section 8(2)(ii) read with section 11 of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, in S.R.No.653/68 M.I Act/Palladam taluk/ dated 17.11.1968 and direct the fourth respondent to restore and record the name of the petitioner in respect of the aforesaid land in the Revenue and village records.

2. Mr.G.Nanmaran, learned Special Government Pleader takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. Since, no adverse order is being passed against the fifth respondent, notice to the fifth respondent is dispensed with.

4. The case of the petitioner is that the petitioner who has sworn to the affidavit is the Executive Officer of the Temple. A piece of land ad-measuring 7.97 acres, comprised in Survey No.292/2 in Nallur village, formerly Palladam Taluk, now Tiruppur Taluk, were unenfranchised Devadayam Minor Inam Lands granted for Thalam in the Temple of Arulmigu Visweswaraswamy, Visalakshi and Subramaniaswamy Temple, Nallur, and confirmed in

T.D.No.39 so long as the performance of the service continued. The said land has been taken over by the Government consequent on the enactment of Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. The then Assistant Settlement Tahsildar - II, who took the matter on the file suo motu under Section 11 of said Act, re-surveyed the said land. After enquiry based on the documents produced and considering deposition made by the concerned parties, the Assistant Settlement Tahsildar - II re-classified the above lands in Survey No.292/2 into two parts as 292/2A and 292/2B and granted Patta under Section 8(2) read with Section 11 of the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. In the said classification, fifth respondent was granted Ryotwari Patta in respect of land comprising of 1.71 acres in Survey No.292/2A and Ryotwari Patta land comprising an area of 6.26 acres in Survey No.292/2B was granted in favour of petitioner/Temple. Thereafter, the fifth respondent made a representation to the Tahsildar of Tiruppur before the fourth respondent to re-survey and demarcate the above land, saying that Revenue authorities while re-surveying the land, had wrongly demarcated the land in his possession by East - West instead of his actual possession of South - North. However, the Tahsildar has recommended for issuing Patta of an extent of 0.20 acre in S.No.292/2A1 and 0.49 in S.No.292/2B1 to the revision petitioner by the Revenue Divisional Officer, Tiruppur by proceedings dated 08.11.2001. Aggrieved by the same, the Temple authorities preferred a revision petition before the Additional District Magistrate cum District Revenue Officer, Coimbatore. The District Revenue Officer by order dated 27.06.2003, set aside the order of Revenue Divisional Officer on the ground that fifth respondent has no right in S.No.292/2B. Challenging the same, the fifth respondent had filed a revision petition before the first respondent. However, the first respondent set aside the order of the D.R.O and restored the order of the R.D.O. Challenging the same, the present Writ Petition has been filed by the petitioner for the above relief.

5. Though very many grounds have been raised, learned counsel for the petitioner submitted that, originally, the Ryotwari Patta granted in favour of the petitioner/Temple by Assistant Settlement Tahsildar under the Inam Act, 1963 in the year 1968. However, in the year 2001, based on the fifth respondent's revision petition, the said order was set aside, and he further submitted that regular authorities have no power to set aside the order passed by the then Assistant Settlement Tahsildar under the special enactment, and the Ryotwari Patta granted under the special enactment cannot be cancelled by the regular Revenue Officials.

6. The learned counsel for the petitioner relyied on a decision of the Hon'ble Division Bench of this Court in the

case of Palaniappa Pandaram and others vs The Commissioner and Commissioner of Land Administration, Madras and others in W.A.No.473 of 1995 dated 31.07.1995. He particularly relyied on paragraph 4 of the above decision, which is extracted hereunder:

> 4.Heard the learned counsel on either side. The order of the learned single Judge is as well merited one not warranting any interference. As noticed by the learned single Judge, the statutory Authority has issued a ryotwari patta under a special enactment in favour of the deity. The nature of the grant which has been confirmed also is in favour of the temple. The proceedings by which the patta was issued in favour of the deity was subject to a statutory right of appeal before the concerned Sub Court constituted as a tribunal and thereafter a further appeal to a Division Bench of this Court and subject to such remedies as noticed above, the other granting patta is rendered final under the statute. Of course, this Court as well as the Apex Court have declared the position that even thereafter, the parties are at liberty to vindicate their respective claims before a civil Court, if they so desire. So far as the facts on hand before us are concerned, the order granting patta in 1969 in favour of the deity remains in full force and effect and has not been also challenged. If that be the position, it was most improper on the part of the appellants who claim to be pujaris/service holders and also on the part of the Tahsildar, to order for the transfer of patta in favour of the appellants replying upon a provision which in our view, is totally irrelevant, Sec.21 of the Act has relevance only to service inams and the grant of the patta in the name of the deity and for the support of the Pagoda cannot be said to be a service inam. If the inam is really a service inam, Patta would have been granted only in favour of the service holders subject to the condition of performance of the service. If is only in such cases, there is scope for having recourse to Sec.21 and not a case like the one concerned before us. That apart, the Regular Tahsildar of the Taluk under the Revenue side has no power to deal with claims under the special enactment in question. The Patta granted in favour of the temple cannot be interfered with by the Tahsildar or any of the ordinary revenue authorities exercising their powers under the Revenue Standing Orders and the patta granted under the said Special enactment under a particular provision can. If at all, be interfered or modified only by the statutory authorities provided under the statute itself in the manner and the extent provided therein. The District Revenue Officer has only set right the grave irregularity and the illegality committed by the

appellants in connivance, as we are constrained to observe, with the Tahsildar, Perundurai relying upon some irrelevant provisions for surreptitiously getting a transfer of patta in the name of the appellants, thereby denying the temple and the deity valuable property. We are constrained to observe that the Tahsildar, Perundurai, has not only exceeded his limits, but has passed the order dated 21.01.1994 in the gross abuse of his powers.(Emphasis added)

7. The learned Special Government Pleader appearing for the respondents submitted that the first respondent has set aside the order of second respondent and confirmed the order of the third respondent by order dated 18.11.2008, based on the revision of the fifth respondent.

8. Considering the facts and circumstances of the case, the decision of the Division Bench in order dated 31.07.1995 makes it clear that, the statutory authority has issued a Ryotwari Patta under a special enactment in favour of the Deity by Service Inams. The nature of the grant which has been confirmed also, is in favour of the Temple. The proceedings can be challenged under the special enactment, not with the regular Tahsildar. In fact, Revenue Officials has set aside the order passed by the Settlement Tahsildar under the special enactment and further, the Taluk and Revenue Officials have no power to deal with claims under special enactment. The Patta granted in favour of the Temple cannot be interfered with by the regular Tahsildar or any other ordinary Revenue Authorities exercising their powers under the Revenue Standing Orders and the Patta granted under the special enactment under a particular provision, can be interfered with only by the statutory authorities provided under the special enactment.

9. Accordingly, this writ petition is allowed. The impugned order passed by the first respondent is liable to be set aside. Accordingly, it is set aside. The Revenue Officials are directed to restore the original Patta granted in favour of the petitioner/Temple as ordered by the Settlement Tahsildar, by order dated 17.11.1968. No costs.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

tri/nhs

To

1.The Principal Secretary and Commissioner of
Land Administration, Chepauk, Chennai.

2.The Additional District Magistrate &
District Revenue Officer, Coimbatore
Office of the District Revenue Officer,
Coimbatore.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruppur,
Coimbatore District,
Present Tiruppur District.

4.The Tahsildar,
Tiruppur Taluk,
Coimbatore District,
Present Tiruppur District.

+1cc to Mr.K.Ashok Kumar, Advocate SR. No.13423
+1cc to Government Pleader SR. No.14172

W.P.No.5849 of 2009

GPL (CO)
PR (15/03/2022)