



WP.No.15044/2005

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.11.2022

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS. JUSTICE N.MALA

WP.No.15044/2005 & WMP.No.16349/2005

- 1.P.Muthu Krishnan [Deceased]
- 2.M.Shanmugasundaram
- 3.M.Chanidradaran
- 4.M.Yoganathan

.. Petitioners

****P2 to P4 substituted as LR's of the
deceased 1st petitioner vide order
dated 10.10.2022 in WMP.No.25591/2022
in WP.No.15041/2005**

Versus

- 1.The Union of India
rep.by the Secretary to Government
cum-Collector, Revenue Department
Government of Union Territory of
Pondicherry, Pondicherry.
- 2.The Director of Settlement
Directorate of Survey and Settlement
Saram, Pondicherry-13.



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- 3.The Settlement Officer-I
Directorate of Survey & Land Records
Saram, Pondicherry-13.
- 4.The Executive Engineer
Public Works Department
Irrigation Division,
Pondicherry-1.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus calling for the records on the file of the 2nd respondent relating to the impugned order dated 21.04.2005 bearing Ref.No.697/IST-I/DOS/04 and quash the same and consequently direct the respondents to carry out the alterations and corrections in the land records, FMB Sketch in respect of the petitioner's land ad measuring to the extent of 67 acres 50 centiares included in Rs.NO.1, Villianur Village, Pondicherry and desist from interfering with the peaceful possession and enjoyment of the petitioner in respect of the same except by due process of law.

For Petitioners	: Mr.T.Sai Krishnan for M/s.Kamala Kumar
For Respondents	: Mr.J.Kumaran Govt. Pleader [Pondy]

ORDER

(1)The above writ petition is filed for issuance of a writ of certiorarified mandamus to quash the proceedings of the 2nd respondent, namely, the Director of Settlement, Puducherry dated 21.04.2005 and to direct the respondents to carry out corrections in the Land Records, FMB Sketch,



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in respect of the petitioners land measuing an extent of 67 Ares 50 Centiares which is wrongly included in RS.No.1, Villianur Village, Pondicherry, and to forbear the respondents from interfering with the peaceful possession and enjoyment of the petitioner in respect of the subject lands.

(2)The writ petitioner P.Muthu Krishnan died during pendency of the above writ petition and hence, his Legal Representatives are brought on record as petitioners 2 to 4 to prosecute the case. Hence, any reference to the 'petitioner' in the following paragraphs will be the deceased writ petitioner P.Muthu Krishnan.

(3)The case of the deceased writ petitioner in the affidavit filed in support of the writ petition is as follows.

(4)By a registered Sale Deed dated 27.12.1976, registered as Doc.No.1/1977 on the file of the Sub Registrar, Villianur, the petitioner [deceased] purchased 2 items of dry lands comprised in Old S.No.12[part] in RS.No.3/1 in all measuring an extent of 1.45.25 Hectares [equivalent to 2 Kanis 71 Kuzhis and 7 Veesams]. The lands are cultivable lands and the petitioner is cultivating the same. The



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lands originally belonged to the ancestors of the petitioner's vendor and the petitioner's vendor by name V.Krishnamurthy was recognised as the person entitled to succeed to the property as the legal heir of his predecessor in interest by a document which was registered before the Notaire as Document No.1681/1964.

(5)At the time of introduction of the Pondicherry Settlement Act, 1970, the lands belonged to the petitioner to an extent of 77 Ares and 75 Centiares had been wrongly included in RS.No.1 in Villianur Village. The petitioner on coming to know about the said mistake in the year 1980, approached the respondents for correction of such mistake. The Deputy Tahsildar, Villianur, after conducting an enquiry, passed an order on 11.05.1982 for correction of mistake after finding that the petitioner's lands are included in RS.No.1. However, the 4th respondent started making measurements and markings in the lands which were in the possession and enjoyment of the petitioner under the pretext that an extent of 77 ares and 75 centiares is going to be utilised for the purpose of constructing a check dam. The petitioner was informed that as per the land records, the land which is now going to be utilised for



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construction of check dam is classified as 'river poramboke'. Thereafter, the petitioner approached the 2nd respondent by way of a representation dated 12.10.2004 requesting for correction of records in accordance with the title of petitioner. Since no orders have been passed by the 2nd respondent on the representations and reminders of the petitioner, the petitioner approached this Court by filing a writ petition in WP.No.39077/2004 and this Court by order dated 10.02.2005, directed the respondents therein to dispose of the petitioner's representation in accordance with law. Thereafter, the petitioner submitted a fresh representation to the 2nd respondent. The Surveyor who conducted a survey found that the lands in S.No.3/1 are in enjoyment of petitioner, but has been wrongly included in RS.No.1 which is classified as a river. The 2nd respondent without considering the documents and the representations submitted by the petitioner, rejected the petitioner's representation as if the petitioner's claim is not supported by any document.

(6) Hence, the above writ petition is filed by the petitioner mainly on the following grounds:-



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- (a) The impugned order of the 2nd respondent is arbitrary and illegal in view of the fact that the entries in the Settlement Records are by mistake as the petitioner's title has been proved by the document of sale and the document of the year 1964 showing title of petitioner to the disputed lands.
- (b) The impugned order is liable to be rejected as the 2nd respondent has not considered the order passed by the Deputy Tahsildar, Villianur, who has been notified as "Settlement Officer".
- (c) The impugned order is passed without application of mind as to the materials on record and the Settlement Officer cannot overlook the documents of title by which the title fo the petitioner had been established.
- (d) The petitioner is in possession of the property and therefore, irrespective of the settlement records, the 2nd respondent ought to have held that the petitioner is in possession and enjoyment of the property for a long time and should be held to be the owner of the property.



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(7)The 2nd respondent has filed a detailed counter affidavit reiterating the reasons stated in the impugned order while rejecting the representation of the petitioner for grant of patta for an extent of 77 ares and 75 centiares in S.No.3/1 of Villianur Village. None of the grounds raised by the petitioner in the grounds are sustainable in view of the specific reasons stated in the impugned order.

(8)The petitioner has produced before the 2nd respondent, two documents to prove his title to a land in RS.No.3/1. The first document is the document in French and the tamil translation is given by the petitioner at page No.1 of the typed set of documents filed by him in the writ petition. The said document refers to the title of the petitioner's predecessor in interest for an extent of 1.02.50 Hectares in Cad.No.12/1 and again an extent of 44 ares and 75 centiares in respect of an extent of 79 Kuzhis and 14 Veesams for another piece of land in the same Cad.No.12. It is seen that the two documents, namely, the document registered before the Notaire and the Sale Deed under which the petitioner claimed to have purchased the property refers to the properties in two items. The first item is an extent of 42 ares and 75



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centiares and the second item is an extent of 1.02.50 Hectares. Both items fall in Cad.No.12 pertaining to RS.No.3/1. It is surprising to note that first item as per the two documents, has been shown to be a property surrounded by Sankaraparani river on three sides. In other words, the first item is described with reference to four boundaries indicating that the property surrounded by river on three sides. This Court is unable to visualize a property of an extent of about 1 acre covered on three sides by river.

(9)The petitioner has not produced any other document except the two documents, namely the Sale Deed and the Deed which was registered before a Notaire in the year 1964. The revenue records before the introduction of Pondicherry Settlement Act, 1970, were not produced. The impugned order reveals that the settlement records before and after settlement, indicate that the land in S.No.1/1 is a river. Only an extent of 64 ares and 50 centiares has been included in the holding of the petitioner after the settlement. It is the case of the petitioner that the remaining extent of land as per the document of title has been wrongly included in S.No.1/1 which is classified as 'river'. From the settlement



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records, it is evident that the entire extent namely, 11.70.80 Hectares in RS.No.1/1 is shown as Sankaraparani river. As per the settlement records, the entire extent measuring 11.70.80 Hectares has been shown as Government Poramboke and in the remarks, Sankaraparani river is mentioned. It is to be noted that corresponding cadastral number for S.No.1/1 is not mentioned and the total extent in RS.No.3/1 is mentioned as 0.67.50 Hectares. RS.No.3/1 is corresponding to S.No.12/1. This Court is unable to find any basis for the petitioner's claim tracing from any revenue records prior to settlement.

(10) It is the case of the respondents that resurvey operations in Pondicherry region was notified on 04.03.1968 and an extent of 0.67.50 Hectares has been registered in favour of the petitioner whereas an extent of 11.70.80 Hectares in RS.No.1/1 is shown as Government Poramboke land with remarks 'Sankaraparani river'. When the petitioner has not filed any document to show that a portion of land which fell in RS.No.3/1, had been wrongly included in S.No.1/1, this Court is unable to accept the case of the petitioner on the basis of his document of title which refers to an extent of 1.45.25



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Hectares in RS.No.3/1. When the petitioner has purchased a specific extent of land in RS.No.3/1 and the total extent of land in RS.No.3/1 during settlement was only 0.67.50 Hectares, this Court is of the view that the petitioner's claim for more extent in RS.No.3/1 cannot be believed. During settlement, the land was resurveyed and new survey numbers were assigned. When the portion of cadastral No.12 part and 12/1 corresponding to S.No.3/1 is shown as land measuring an extent of 0.67.50 Hectares, this Court is unable to accept the case of the petitioner that there was mistake during settlement. The petitioner is unable to prove his stand that his predecessor in interest had title to an extent of 0.42.75 Hectares and another extent of 1.02.50 Hectares in RS.No.3/1 as per his title document. Admittedly, no revenue document is produced to prove the ownership of petitioner's vendor for a larger extent in RS.No.3/1. No revenue record is produced by the petitioner to indicate that prior to settlement, the petitioner or his vendor had title to more extent as per revenue records before or after settlement.

(11)The Puducherry Settlement Act, 1970, was enacted for settlement of lands, Assessment of Land Revenue and for preparation of land



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records and for matters connected therewith. After survey operations under the provisions of the Puducherry Survey and Boundaries Act, 1967, the Government may direct settlement in respect of any land. Section 7 of the Act speaks about determination of assessment of land revenue by dividing the land to be settled into groups and groups into classes on the basis of soil and physical configuration yield of principal crops and their prices, irrigation facilities and rainfall and other additional factors. Section 8 contemplates enquiry and submission of report through the Director containing proposals for settlement. After getting approval from the Legislative Assembly, and publishing the Report [which is also known as Scheme Report] specifying the Fasli from which the settlement shall be introduced, the Settlement will be in force.

(12) However, Section 10 of the Act -Registration of Government lands, which are in the possession and enjoyment of the communes on the date of commencement of the Act and which are used or which may be required for communal public or Government purposes as porambokes during settlement. Sections 11 and 12 of the Act deals with liability of



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registered holder to pay land revenue as assessment and levy of additional land revenue on lands or on fruit bearing trees standing on porambokes. Section 13 of the Act contemplates preparation of a settlement Register and a Register of Rights as per holding on the basis of survey records by including all the particulars like survey number and sub division, extent of land and land revenue due thereon, name of registered holder, name of tenant cultivating the land and other particulars as may be prescribed. Section 14 of the Act prescribes procedure for finalisation of Register of Rights and sending an extract of the entries of persons whose name is entered in the Register, thereby informing him the date before which he should file his objection. A notification issued by the Government or any officer authorised by Government is required to be published in the Official Gazette. Subsection 2 of Section 14 enables the interested person, aggrieved by the entries in the Register of Rights to file objections accompanied by documents relied on by the **objector** for correction of entries and the Settlement Officer shall fix a date of enquiry in relation to the objections and after giving sufficient opportunity to the persons



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interested pass orders with brief reasons and finalize the Register of Rights after making alterations, if necessary, on the basis of orders passed by him.

(13) Thereafter the Settlement Officer shall publish the Register of Rights under Section 15 in the manner prescribed and the Register so published shall be the approved Register of Rights. Modification of approved Register is permitted under Section 16(1) of the Act is permissible either by reason of death of any person or by reason of transfer of interest or by reason of any other change in the holding, on the application before the officer as specified by the Collector for modification of relevant entries. Section 17 of the Act requires every person who acquire any right by succession, survivorship, inheritance, partition, purchase gift, mortgage, lease or otherwise any right to report to the officer within three months from the date of acquisition. A person who fails to make a report is liable to pay penalty as may be fixed by Collector in case transfer of right is not by registered instrument. As in the case of Patta Passbook Act, every transfer by registered holder can be registered only if the person along with



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registration fees pay the prescribed fee for modification of entries in approved register. Mutations are recorded in Register of Mutations which shall be maintained for every village. Therefore, correction of entries in the approved Register is only on the basis of the report as to the transfer or acquisition as registered holder as per Sections 17 or 18 of the Act. Under Section 19, any correction shall be communicated by the concerned officers to all persons who are interested as per approved register regarding mutations. Any person aggrieved by any order made under the Section 14[3][ii] of the Act or under Sections 16 and 19, may file an appeal before the Collector. Section 22 empowers the Secretary of Government to examine the order of the Appellate Authority either on his own or on the application of aggrieved and pass orders as he may deem fit. Section 23 contemplates correction of bona fide mistake in regard to any decision or proceeding at any time. Section 25 of the Act bars civil suit to decide or deal with any question which is required to be decided or dealt with by authorities or officers under the Act.

(14)The learned counsel for the petitioner relied upon the Report of the



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Deputy Tahsildar, Villianur. Additional document is also filed by the learned counsel for the petitioner to indicate that the Deputy Tahsildar, Villianur, is authorised by the Government to deal with mutation in respect of areas on which they have jurisdiction. The Puducherry Settlement Act, 1970, does not authorise the Deputy Tahsildar, to deal with the correction in revenue records prepared after settlement. Even as per the Government Order, produced before this Court, the Deputy Tahsildar, is authorised to deal with mutation. The mutation under the Settlement Act is possible only in a few circumstances as in the case of Tamil Nadu Patta Passbook Act. The Tahsildar or the Deputy Tahsildar, Villianur, is not authorised to decide the question of title. Only in the case of mutation which is required on account of transfer of interest or by death or by any change in the holding for example by virtue of a decision of a Civil Court declaring one's title. In this case, the petitioner produced before this Court, the Title Deed namely the Sale Deed by which the petitioner claimed to have purchased a larger extent than what is available in the survey field as per the revenue records. In the absence of any revenue record prior to settlement of



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register of rights in favour of petitioner's vendor for the larger extent to which the petitioner claims title, the petitioner cannot approach the Deputy Tahsildar, for mutation. The petitioner's application for correction of mistake was therefore, filed before the 2nd respondent who is the only authority authorised to correct revenue records during settlement. Therefore, the petitioner cannot rely upon the report of the Deputy Tahsildar, who is not competent to correct the settlement records. The claim of the petitioner is therefore, misconceived and this Court is unable to find any error or irregularity in the order of the 2nd respondent rejecting the application of the petitioner for correction of mistake in revenue records pursuant to settlement.

(15)Hence, the writ petition is **dismissed as devoid of any merits.**

(16)At this juncture, the learned counsel for the petitioner sought indulgence of this Court to give liberty to the writ petitioner to file a civil suit. From the records, this Court is unable to find any merit in the claim of the petitioner. The Court cannot resist anyone claiming title on the basis of his long enjoyment and undisturbed possession. However, the lands to which the petitioner claims title, has been



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classified as a water body and the settlement records clearly indicate the nature of land. The petitioner's document itself discloses that a substantial portion of the property alleged to have been purchased by the petitioner is covered by river on three sides. In such circumstances, this Court is unable to give any liberty to the petitioner as it was originally suggested to the petitioner before considering the case on merits. Since the petitioner's claim on title is devoid of merits, liberty sought for by the petitioner is rejected. However, this judgment cannot be construed as one preventing the petitioner to file a suit if it is permissible in law subject to Section 25 of the Settlement Act and other limitations. This writ petition is **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

[SSSRJ] [NMJ]
07.11.2022

AP
Internet : Yes



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To

- 1.The Secretary to Government
cum-Collector, Union of India
Revenue Department, Government of Union Territory of
Pondicherry, Pondicherry.
- 2.The Director of Settlement
Directorate of Survey and Settlement
Saram, Pondicherry-13.
- 3.The Settlement Officer-I
Directorate of Survey & Land Records
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and
N.MALA, J.,
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