



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25688 of 2010

1.V.Kasinathan

2.V.Ramdass

... Petitioners

Vs.

1.The District Collector,
Ariyalur District,
Ariyalur.

2.The District Revenue Officer,
Ariyalur District,
Ariyalur.

3.The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.

4.The Tahsildar,
Udayarpalayam Taluk,
Jayamkondan,
Ariyalur District.

5.Swamidurai

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent herein in his proceedings Na.Ka.A2/349/2010 and quash the order dated 04.10.2010.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.M.Murali for R1 to R4
Government Advocate
Mr.K.Venkatasubban for R5
for M/s.Sarvabhauman Associates



O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the first respondent in his proceedings Na.Ka.A2/349/2010 and to quash the order dated 04.10.2010.

2.The case of the petitioners is that the petitioners are brothers. The property measuring an extent of 28 cents in S.No.534/4 and 9 cents in S.No.534/5 of Jamil Thathanur Valavettikuppam in Udayarpalayam Taluk belong to them ancestrally. Their grandfather constructed a chavadi in S.No.534/4 for the benefit of travellers and it is known as Veeramuthu Chavadi and the petitioners family are maintaining the same. The land in S.No.534/4 was covered under patta no.25 issued in the name of Veeramuthu Chavadi Trustee.

3.The further case of the petitioners is that during the settlement proceedings under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, their father was granted patta only for 22 cents by the Assistant Settlement Officer, Trichy, against which, the petitioners father preferred revision before the Settlement Officer, Trichy. The Settlement Officer remanded the matter back to the Assistant Settlement Officer and after enquiry, vide order dated 15.01.1967, the Assistant Settlement Officer held that the petitioners father is entitled to patta for 13 cents in S.No.534/4 and 9 cents in S.No.534/5 and an extent of 15 cents in S.No.534/8 (part of S.No.534/4) is classified as road poromboke.

4.The further case of the petitioners is that the Tahsildar, Udayarpalayam, vide order dated 09.04.1987 classified the extent of 15 cents in S.No.534/8 as road poromboke and hence, the petitioners preferred appeal before the Revenue Divisional Officer and the Revenue Divisional Officer vide order dated 03.07.1987 set aside the order of the Tahsildar and directed restoration of entries in the revenue records as it was prior to the settlement proceedings. As against the order, one Swamikkannu preferred appeal before the District Revenue Officer and the District Revenue Officer vide order dated 09.07.1987 set aside the order of the Revenue Divisional Officer.

5.The further case of the petitioners is that when the District Collector sought to implement the order of the District Revenue Officer, the petitioners filed petition to the District Collector, however, the District Collector vide order dated



21.06.1990 confirmed the order passed by the District Revenue Officer. Thereafter the petitioners preferred W.P.No.12519 of 1990 before this Court and this Court vide order dated 05.11.1990 remanded the matter back to the District Collector. Thereafter, the District Collector conducted enquiry and vide order dated 29.01.1991 confirmed the order passed by the District Revenue Officer. Aggrieved by the same, the petitioners filed W.P.No.6121 of 1991 before this Court and this Court vide order dated 17.03.1995 dismissed the writ petition and held the order passed by the Assistant Settlement Officer dated 15.01.1967 as final.

6.The further case of the petitioners is that the 13 cents in S.No.534/4 and 9 cents in S.No.534/5 are covered under patta no.1095 in the revenue records as Veeramuthu Chavadi and the survey numbers were subsequently re-numbered as S.Nos.534/6 and 534/7 in the revenue records and new patta was issued in patta no.2025 in the name of Veeramuthu Chavadi. Whiles, the fifth respondent made representation to the second respondent seeking to cancel patta no.1095 claiming the said lands are Government poramboke lands. Since the second respondent did not take any action on his representation, the fifth respondent filed W.P.No.5132 of 2010 before this Court and this Court vide order dated 17.06.2010 directed the District Collector to pass appropriate orders on the fifth respondent's representation. Thereafter, the impugned order came to be passed. Hence, this writ petition.

7.The learned counsel appearing for the petitioners submitted that in respect of the very same dispute, the petitioners already filed O.S.No.57 of 2010 before the District Munsif Court, Jayamkondam for permanent injunction and obtained decree in their favour. When the said decree is in force, the impugned order passed by the first respondent is un-sustainable one.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.The facts in the present case is not in dispute. Admittedly, during the settlement proceedings under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, the petitioners father was granted patta only for 22 cents by the Assistant Settlement Officer, Trichy. Hence, the petitioners father preferred revision before the Settlement Officer, Trichy, claiming patta for an extent of 28 cents in S.No.534/4 and 9 cents in S.No.534/5. The



Settlement Officer remanded the matter back to the Assistant Settlement Officer and after enquiry, vide order dated 15.01.1967, the Assistant Settlement Officer held that the petitioners father is entitled to patta only for 13 cents in S.No.534/4 and 9 cents in S.No.534/5 and an extent of 15 cents in S.No.534/8 (part of S.No.534/4) is classified as road poromboke.

10. Thereafter, the Tahsildar, Udayarpalayam, vide order dated 09.04.1987 classified the extent of 15 cents in S.No.534/8 as road poromboke and the petitioners preferred appeal before the Revenue Divisional Officer and the Revenue Divisional Officer vide order dated 03.07.1987 set aside the order of the Tahsildar and directed restoration of entries in the revenue records as it was prior to the settlement proceedings. As against the order, one Swamikannu preferred appeal before the District Revenue Officer and the District Revenue Officer vide order dated 09.07.1987 set aside the order of the Revenue Divisional Officer. When the District Collector sought to implement the order of the District Revenue Officer, the petitioners filed petition to the District Collector, however, the District Collector vide order dated 21.06.1990 confirmed the order passed by the District Revenue Officer.

11. Thereafter the petitioners preferred W.P.No.12519 of 1990 before this Court and this Court vide order dated 05.11.1990 remanded the matter back to the District Collector. Thereafter, the District Collector conducted enquiry and vide order dated 29.01.1991 confirmed the order passed by the District Revenue Officer. Aggrieved by the same, the petitioners filed W.P.No.6121 of 1991 before this Court and this Court vide order dated 17.03.1995 dismissed the writ petition and held the order passed by the Assistant Settlement Officer dated 15.01.1967 as final.

12. Now the petitioners claim that they have filed O.S.No.57 of 2010 on the file of the District Munsif Court, Jayamkondam, for permanent injunction and obtained decree in their favour in respect of S.Nos.534/6 and 534/7. The corresponding survey number for S.No.534/4 is S.No.534/6 and the corresponding survey number for S.No.534/5 is S.No.534/7. The chavadi is situated in S.No.534/4 for which the corresponding survey number is S.No.534/6 and it is not situated in S.No.534/5 for which the corresponding survey number is S.No.534/7. If at all the petitioners claim title in respect of Veeramuthu Chavadi, they can claim title only in respect of S.No.534/4 for which the corresponding survey number is S.No.534/6 and not S.No.534/5 for



which the corresponding survey number is S.No.534/7. Originally, S.No.534/5 has been classified as Dharmadhayam.

13.Further, this Court vide order dated 17.03.1995 made in W.P.No.6121 of 1991 has held the order passed by the Assistant Settlement Officer dated 15.01.1967 stating that the petitioners father is entitled to patta only for 13 cents in S.No.534/4 and 9 cents in S.No.534/5 and an extent of 15 cents in S.No.534/8 (part of S.No.534/4) is classified as road poromboke as final. Hence, the impugned order is perfectly in order and this Court is not inclined to interfere with the impugned order.

14.The writ petition is accordingly dismissed. If at all the petitioners claim title in respect of Veeramuthu Chavadi, it is open to the petitioners to work out their remedy in the manner known to law. No costs.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

- 1.The District Collector,
Ariyalur District, Ariyalur.
- 2.The District Revenue Officer,
Ariyalur District, Ariyalur.
- 3.The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.
- 4.The Tahsildar,
Udayarpalayam Taluk,
Jayamkondan, Ariyalur District.

+1cc to M/S.R.Subramanian, Advocate Sr.20134
+1cc to M/s.Sarvabhuman Associates, Advocate Sr.19801
+1cc to the Special Government Pleader Sr.20409

W.P.No.25688 of 2010

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