



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.21971 & 21972 of 2012

and

W.M.P.Nos.1, 2 & 2 of 2012 and W.M.P.Nos.1 & 1 of 2013 and
W.M.P.No.1 of 2015

1.V.S.Palanisamy

2.P.Venkatesan ... Petitioner in W.P.No.21971 of 2012

1.N.Samiyappan ... Petitioner in W.P.No.21972 of 2012

Vs.

1. The Revenue Divisional Officer,
Erode,
Erode District.
2. The Tahsildar,
Erode Taluk, Erode.
3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Near Manickam Theatre,
Erode.
4. The Executive Officer,
Arulmigu Saktheeswarar and Mariamman Temple,
Modavandi Sathyamangalam Village,
Office at Arulmigu Mahaveera Anjaneya Temple,
Near VOC Park, Erode
(R4-Impleaded as per order dated 17.08.2012
by NPVJ in Mps.3 & 3 of 2012 in
W.P.No.21971 & 21972 of 2012)
...Respondents in both W.P's

Prayer in both W.P's:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No.Na.Ka.4444/2012 B-1, dated



03.07.2012 and No.Na.Ka.4446/2012 B-1, dated 03.07.2012 respectively and quash the same.

WEB COPY

For Petitioners

:Mr.C.Prakasam
in both W.P's

For Respondents R1 & R2 : Mr.M.Murali,
Government Advocate
in both W.P's

For Respondents R3 & R4 : Mr.K.Karthikeyan,
Government Advocate (HR & CE)
in both W.P's

O R D E R

The petitioners have filed these writ petitions for quashment of the impugned proceedings No.Na.Ka.4444/2012 B-1, dated 03.07.2012 and No.Na.Ka.4446/2012 B-1, dated 03.07.2012 passed by the 1st respondent.

2. The case of the petitioners in both Writ Petitions is that the property situated in S.No.204/4 (new survey number), Old Survey No.332/1A, M.S.Mangalam Village, Erode Taluk to an extent of 2.83 acres, which was originally purchased by the ancestors of the petitioners in W.P.No.21971 of 2012 and they were in possession and enjoyment of the said land, whereas the petitioner in W.P.No.21972 of 2012 and his brother purchased the properties situated in S.Nos.204/3 and 205/1B (new survey numbers) Old Survey No.332/1A, M.S.Mangalam Village, Erode Taluk to an extent of 3 acres and 96 cents.

3. While that being so, enquiry was conducted by the Erode Settlement Tahsildar under the provisions of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act and patta was issued in favour of the 4th respondent/Temple. Aggrieved by the same, the adjacent land owners of the above said properties filed an appeal in C.M.A.Nos.46 and 47 of 1995, challenging the issuance of said patta and the Principal Sub Court, Erode, set aside the order dated 12.10.1970 passed by the Settlement Tahsildar and remanded the matter to the Assistant Settlement Tahsildar, pursuant to which, the Assistant Settlement Tahsildar issued notice and passed orders in favour of the adjacent land owners. Even though the petitioners were in continuous enjoyment and possession of the above said properties, however, they have not received any notice from the said Assistant Settlement Tahsildar.



4. Thereafter, at the request of the petitioners, their applications were taken on file and notices were issued to the 2nd and 3rd respondents and enquiry was also conducted, in which objections were raised by the 2nd and 3rd respondents in granting patta in favour of the petitioners. However, considering the long possession and enjoyment of the petitioners over the above said properties, the Assistant Settlement Officer passed order in proceedings Na.Ka.I-2/928/11 dated 14.03.2012 allowing the petitioners' application and issued direction to the 2nd respondent for issuing Ryotwari Patta to the petitioners and the said Patta was issued in favour of the petitioners, by proceedings Na.Ka.7950/2010 B1, dated 18.04.2012 and after payment of fair rent, their names were recorded by the Revenue Officials. Thereafter, all of a sudden, the 3rd respondent approached the 1st respondent for cancelling the patta issued in favour of the petitioners, as a result of which, the 1st respondent, without issuing any show cause notice and without giving any opportunity of hearing to the petitioners, passed the impugned order by proceedings No.Na.Ka.4444/2012 B-1, dated 03.07.2012 and No.Na.Ka.4446/2012 B-1, dated 03.07.2012 respectively and directed the Revenue Officials to change over all the Revenue Records in the name of the 4th respondent/Temple. Challenging the said order of the 1st respondent, these Writ Petitions are filed.

5. The learned counsel for the petitioners submitted that, initially, Patta was issued in favour of the 4th respondent/Temple by the Settlement Tahsildar, without conducting any proper enquiry. However, the order passed by the said Settlement Tahsildar was set aside by the Sub Court, Erode in C.M.A.No.46 & 47 of 1995 and the matter was remanded to the Assistant Settlement Tahsildar, whereby, notices were only issued to the adjacent land owners and not to the petitioners, despite the petitioners were not a party in the appeal filed by them. However, considering the long possession and enjoyment of the petitioners over the disputed properties, the 2nd respondent issued Patta in favour of the petitioners by his proceedings Na.Ka.7950/2010 B1, dated 18.04.2012 after payment of fair rent and their names were recorded by the Revenue Officials. While that being so, the impugned order passed by the 1st respondent cancelling the patta granted in favour of the petitioners, is not sustainable. Hence, he prays for allowing the Writ Petitions.

6. The learned Government Advocate appearing for the respondents 1 and 2 submitted that counter affidavit has been



filed by the 1st respondent stating that the Principal Secretary and Commissioner of Land Administration, Chennai, in his instructions D.O.P.C.K./36249/06 dated 14.02.2011, has clearly stated that the illegal order passed by the Assistant Settlement Officers/Settlement Officers should not be implemented, and as such, the necessary entry shall be made in the 'Prohibitory Order Book'. Even now, the said Settlement Officers are passing adverse orders under the Inam Abolition Act in respect of 'time barred' applications with regard to Government Poramboke lands and acting upon their own, without any authority and passing orders under the umbrella of Settlement Department. However, the said Settlement Officers have no jurisdiction to enter into the Revenue Administration under the guise of passing orders under the said Inam Abolition Act. Even after the issuance of said letter to all District Collectors, some fraudulent orders are being passed and in order to prevent the same, the Collectors were directed not to implement the orders of the Assistant Settlement Officer/Settlement Officer/ Director of Survey and Settlement, without getting instructions from the Principal Secretary and Commissioner of Land Administration.

7. The further contention of the 1st respondent is that the Tahsildar, Erode had earlier sent a proposal to the Assistant Settlement Officer, Chennai dated 09.12.2010. However, the said Tahsildar is not empowered to send proposal to the Assistant Settlement Officer directly which is a clear violation of the existing official procedure, thereby, the 1st respondent passed orders vide proceedings in Ref.4444/2012/B1, dated 03.07.2012 with-holding the order passed by the 2nd respondent/Tahsildar. It is further stated that the disputed land involved in this case S.F.204/4 (old S.F.332/1A) belongs to a Hindu Temple, namely Arulmighu Sri Mariyamman Temple and the Temple comes under the Hindu Religious and Charitable Endowments Department and the petitioners have no title over the said disputed properties. Further, the guideline value of the near-by lands in S.F.204/4 is Rs.3,00,000/- per acre, and therefore, the value of the land in this case measuring 2.83 acres is Rs.8,49,000/- and the petitioners had remitted only Rs.10,650/- as fair rent. Hence, he prays for dismissal of the Writ Petitions.

8. Heard the rival contentions made by the learned counsel for the petitioners as well as the respondents.

9. From a perusal of the materials available on record, it reveals that the disputed properties were originally settled in favour of the 4th respondent/Temple by the Settlement Tahsildar,



vide order dated 12.10.1970. Though the petitioners claim that the said order was set aside by the Sub Court, Erode in C.M.A.Nos.46 & 47 of 1995, admittedly, the petitioners were not a party in the appeal filed before the said Sub Court. Further, on perusal of impugned order passed by the 1st respondent, it reveals that the petitioners were granted lease for the disputed properties by the 2nd respondent/Tahsildar. When such being the case, this Court is at a loss to understand as to how the very same authority, viz., the 2nd respondent/Tahsildar could grant Patta in favour of the petitioners. If the petitioners are lease holding, no right accrues to the petitioners to claim Patta and no Patta could be granted in favour of the petitioners.

10. This Court is unable to understand as to how the petitioner obtained Patta in the absence of any right over the disputed properties under the provisions of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act. In the absence of said right, the 2nd respondent/Tahsildar is incompetent to issue patta in favour of the petitioners. Moreso, the records reveal that the land was transferred in favour of the 4th respondent temple and the petitioner was only a lease holder, who at a late point of time sought Patta, which has been held to be unsustainable. Therefore, rightly the impugned order has been passed by the 1st respondent which cannot be interfered by this Court.

11. Accordingly, these Writ Petitions are dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

anu
To

1. The Revenue Divisional Officer,
Erode,
Erode District.
2. The Tahsildar,
Erode Taluk,
Erode.



3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Near Manickam Theatre, Erode.

WEB COPY

4. The Executive Officer,
Arulmigu Saktheeswarar and Mariamman Temple,
Modavandi Sathyamangalam Village,
Office at Arulmigu Mahaveera Anjaneya Temple,
Near VOC Park, Erode.

+1cc to the Government Pleader Sr.13815, 13536

W.P.Nos.21971 & 21972 of 2012

pl[col
srg 20/04/2022