



W.P. No.21171/2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
25.08.2022	12.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.21171 OF 2013

G.Ramesh

.. Petitioner

- Vs -

The Revenue Divisional Officer
Tambaram, Chennai.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned proceedings vide Na.Ka. No.1297/2013/A dated 11.06.2013 of the respondent herein and quash the same and direct the respondent to restore the revenue records in the name of the petitioner forthwith.

For Petitioner : Mr. V.Manohar

For Respondent : Mr. Yogesh Kannadasan, Spl. GP



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ORDER

Challenging the cancellation of ryotwari patta by the respondent the present writ petition has been filed with a further direction to the respondent to restore the revenue records.

2. It is the case of the petitioner that the lands in Survey No.125 of an extent of 1.53 acres were originally owner by one Ramanada Iyer and Sundarama Iyer in the year 1935, which was later subdivided into Survey No.126/1 and 126/2 while at the time of initiation of ryotwari proceedings and ryotwari patta was granted in the name of Venkatarama Iyer and Subramaniya Iyer in the proportion of 1.08 acres and 0.45 acres under the Tamil Nadi Inam (Abolition & conversion into Ryotwari) Act, 1963 (for short 'the Act') by the order of the Settlement Tahsildar dated 30.11.1970. It is the further averment of the petitioner that since the said date, the revenue records were mutated.



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3. It is the further case of the petitioner that the subsequent sale of the said property came to the hands of the vendors of the petitioner and based on the right, title and possession, the vendors entered into the sale transaction with the petitioner for 52 cents vide sale deed dated 20.7.2012 registered as Document Nos.4743 and 4744 of 2012. It is the further case of the petitioner that the respondent, at the instance of unknown persons, had initiated action for cancellation of the patta without even the presence of the temple and the proper parties and in stark deference to the earlier proceedings and material records.

4. It is the further case of the petitioner that the petitioner pursuant to the passing of the impugned proceedings, the petitioner was not provided with a copy of the proceedings, but the same was sent to the Union Bank of India, Adyar Branch from which the petitioner had obtained a copy of the order, which has been impugned in this writ petition. It is the further case of the petitioner that certain vested interest are trying to usurp the lands and in this regard a public interest litigation in W.P. No.1357/2013.



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5. It is the further averment of the petitioner that the act of the respondent in conducting the enquiry and further not providing the copy of the proceedings is nothing but a direct infringement of the rights of the petitioner to pursue appeal. It is the further averment of the petitioner that the authority under the Act alone is empowered to deal with ryotwari patta and the respondent has no power to go into the grant of the patta passed by the Assistant Settlement Officer. It is the further case of the petitioner that though the entries in the 'A' Register of the year 1979 clearly speaks about the land being held by Venkatarama Iyer and Subramaniya Iyer, which was by virtue of the order of the Settlement Tahsildar, yet the finding recorded by the respondent that the interest of the Temple, which is found in the 'A' Register with regard to the entry "*Perumal Koil Devadhayam Poosthi*" has no relevance due to the vesting of the entire property in the Government upon take over. When the land has vested with the Government upon vesting under the particular enactment, and the Settlement Tahsildar has conducted enquiry and granted patta in favour of Venkatarama Iyer and Subramaniya Iyer, which has not been questioned for over four decades, the act of the respondent in passing the impugned proceedings is wholly erroneous.



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6. It is the further averment of the petitioner that the ryotwari patta had been granted to Venkatarama Iyer and Subramaniya Iyer and in the enquiry, no objection was raised by any person, including the Perumal Temple, which resulted in the grant of ryotwari patta in favour of Venkatarama Iyer and Subramaniya Iyer. That being the case, the act of the respondent in cancelling the patta on the ground that the Hindu Religious and Charitable Endowments Department has not been put on notice is wholly unsustainable.

7. It is the further averment of the petitioner that the petitioner, through various documents by which the lands have passed through various hands until it landed with the petitioner, the petitioner has proved the continuous title and possession of the property as also the pre-existing right of his vendors, which has been passed through by the predecessors-in-title and such being the case, interfering with the same after such a long time is wholly impermissible. Therefore, the present writ petition has been filed.



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8. Learned counsel appearing for the petitioner submits that the respondent has no jurisdiction to entertain the objection and pass the impugned order as the patta was issued by the Settlement Tahsildar under a special enactment, which cannot be gone into by the respondent. It is the further submission of the learned counsel that the Settlement Tahsildar had gone into all the materials and had come to the conclusion that the notings in the 'A' Register is shown as "*Perumal Maniyam*", which in effect is a maniyam given to the user of the land and not to the temple, as no temple has claimed the land by submitting any objection. It is the further submission of the learned counsel that the finding that no notice was sent to HR & CE Department calling for their view is wholly unreasonable. It is therefore submitted that the Settlement Tahsildar has properly considered the issue and granted ryotwari patta in favour of the predecessors-in-title of the petitioner, which has not been appreciated by the respondent. The findings rendered by the respondent for cancelling the ryotwari patta is wholly vitiated with mala fides and is without jurisdiction and the same deserves to be interfered with.



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9. Per contra, learned Special Government Pleader appearing for the respondent submitted that while the 'A' Register produced by the petitioner is not authenticated, the original of the 'A' Register maintained at the Village was called for by the respondent and upon proper verification of the same, it was evidenced that the entries that the lands were "*Perumal Koil Devadhayam Poosthi*" and given for the use of the Perumal Temple. Such being the case, the Settlement Tahsildar has not issued any notice to the HR & CE Department calling upon their views before granting ryotwari patta in favour of Venkatarama Iyer and Subramaniya Iyer.

10. It is the further submission of the learned Special Government Pleader that though the 'A' Register reflected the entries as 'Perumal Maniyam', however, for reasons best known to the Settlement Tahsildar, the said entry was held as 'Ejaman Maniyam' and converting the classification, the Settlement Tahsildar had issued the ryotwari patta in favour of the predecessors-in-title of the petitioner. It is the further submission of the learned Special Government Pleader that the basis on which the Settlement Tahsildar inferred 'Perumal Maniyam' as 'Ejaman Maniyam' is not clear and further the Settlement Tahsildar



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is not clothed with such power to give a different inference to what is provided in the 'A' Register. In fact, there is a categorical entry in the 'A' Register that the land belongs to Perumal Temple, which is the pattadar and such being the case, it is the duty of the Settlement Tahsildar to verify the authenticity of the patta with the HR & CE Department and without putting the said department on notice, the Settlement Officer cannot issue any patta in favour of the petitioner's predecessors-in-title.

11. It is the further submission of the learned Special Government Pleader that with regard to any erroneous entries, the respondent being the custodian of the revenue records, is clothed with power and jurisdiction to carry out the necessary correction in the entries and, accordingly, following the procedure, enquiry was conducted and the patta, which was granted erroneously in favour of the petitioner, was cancelled by the respondent, after appreciating the entries in the revenue records. As the entries were erroneous, it is submitted that necessary correction was made in the revenue records after cancelling the patta granted erroneously by the Settlement Tahsildar and, therefore, the said order,



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being based on necessary findings, the same does not warrant interference by this Court.

12. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

13. The petitioner claims patta to the subject lands through his vendor and his previous predecessors-in-title. It is to be pointed out that for grant of ryotwari patta, it is necessary that pre-existing right on the said property needs to be established and upon satisfaction, ryotwari patta can be granted by the Settlement Tahsildar.

14. In the present case, it is the case of the petitioner that the subject lands, which formed part of S. No.126 was originally owned and Ramanada Iyer and Sundarama Iyer and, thereafter, upon the vesting of the lands with the Government on the coming into force of the Act, the lands were taken over by the Government. It is further evident from the averment of the petitioner that



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records pertaining to the ownership of the property of the year 1935 shows that Ramanada Iyer and Sundarama Iyer were the owners of the property.

15. It is to be pointed out that the lands stood vested with the Government upon take over under the Act in the year 1963, after coming into force of the said Act on 1st January, 1964. Therefore, before 1964, the pre-existing right of the individual over the said lands is a condition mandatory to be proved for claiming ryotwari patta. Further, proof of the person being a ryot and that the lands are ryotwari lands are mandatorily to be proved by the pre-existing right holders for claiming ryotwari patta.

16. Be that as it may. As stated above, the petitioner has stated that S. No.126 was subdivided into S. No.126/1 and 126/2 and ryotwari patta was granted in favour of Venkatarama Iyer and Subramaniya Iyer by the Settlement Tahsildar on 30.11.1970, as on their claim no objection was made by any person. In this regard, a careful perusal of the order passed by the Settlement Tahsildar reveals that the subject lands comprised in T.D. No.174 stood vested with the Government with effect from 15.2.1965 and that nobody preferred any petition



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for grant of ryotwari patta for these lands. It is further evident that the enquiry resulted in the examination of one Venkataraman, who has been granted ryotwari patta, as P.W.1, who is stated to have submitted that the said lands are his ancestral property and it is only 'Ejama Maniyam' and not 'Perumal Maniyam' as mentioned in the notice and to support this, the Inam Fair Registrar extract has been marked. The Karnam was examined as C.W.1, who also deposed that the lands are not attached to any temple and that the old village accounts show the lands to be Ejama Maniyam and not Perumal Maniyam. It is further relevant from the records that the settlement register reflects the land to be that of 'Perumal Maniyam'. Based on the above, the Settlement Tahsildar has granted patta in favour of Venkatarama Iyer and Subramaniya Iyer.

17. It is evident from the said order that only Inam Fair Register was placed before the Settlement Tahsildar and the Settlement Tahsildar has not verified any other material to come to the finding that it is 'Ejama Maniyam' and not 'Perumal Maniyam'. However, equally, the Settlement Tahsildar has recorded a categorical finding that the Settlement Register reflects that the entry in the same is shown as 'Perumal Maniyam'. Such being the case, it is



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incumbent upon the Settlement Tahsildar to have issued appropriate notice to the HR & CE Department to ascertain as to whether the lands, in any way, belong to the Temple. However, no determined efforts seem to have been taken by the Settlement Tahsildar but to merely write to the Assistant Settlement Officer, who had directed him to determine the nature of the land with reference to the records.

18. Such being the admitted position, when the Settlement Register reflected that it is 'Perumal Maniyam', though a claim was made that the lands were only 'Ejaman Maniyam', it was incumbent on the Settlement Tahsildar to have written to the HR & CE Department seeking their opinion/objection to the grant of patta in favour of Venkatarama Iyer and Subramaniya Iyer. However, for reasons best known, the Settlement Tahsildar has not resorted to the said procedure, but merely applied his wisdom and granted ryotwari patta to Venkatarama Iyer and Subramaniya Iyer holding that the Settlement Register wrongly classified the lands as 'Perumal Maniyam', but in effect, it is only 'Ejaman Maniyam' and, accordingly, while reclassified the land, had granted the aforesaid patta.



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19. When a particular record at the hands of the Settlement Tahsildar revealed the particular land to belong to the Temple and classified as 'Perumal Maniyam', diverting away from the said register and relying on the Inam Fair Register produced by the said Venkatarama Iyer and Subramaniya Iyer, reclassifying the lands as 'Ejaman Maniyam', without any attendant material is wholly unsustainable, more so, when only a claim is made by the said Venkatarama Iyer and Subramaniya Iyer that the said lands are their ancestral property, but no documents evidencing the same has been placed before the Settlement Tahsildar, as such documents have not been spoken to by the Settlement Tahsildar. The authority by which the Settlement Tahsildar has reclassified the lands as 'Ejaman Maniyam' from that of 'Perumal Maniyam' is not known, when the Settlement Register reflects the said lands as 'Perumal Maniyam'.

20. The respondent, while considering the objections with regard to the reclassification of lands from 'Perumal Maniyam' to 'Ejaman Maniyam', has taken note of the 'A' Register, which reflects that the lands are classified as



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‘Perumal Maniyam’ and such being the case, without putting HR & CE on notice and calling for their objections, reclassifying the lands and granting ryotwari patta is impermissible. The respondent has further held that when the registers held at the officer of the Tahsildar clearly show that the lands belong to ‘Perumal Maniyam’ and, therefore, the temple alone has the right, the deviation by the Settlement Tahsildar in granting ryotwari patta in favour of Venkatarama Iyer and Subramaniya Iyer is wholly impermissible.

21. Further, the respondent has held that when in the ‘A’ Register, the entries with regard to the lands have been shown to be ‘Perumal Koil Devadhayam Poosthi’, without adverting to the said document, relying on an unauthenticated copy of the ‘A’ Register, granting of ryotwari patta by holding that the entries in the Settlement Register are erroneous as it creates a doubt as to whether ‘Perumal Maniyam’ denotes the Perumal Temple or it denotes any individual and in such a backdrop, the respondent has held that the ryotwari patta granted itself is bad.



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22. The petitioner claims right to patta on the basis of the patta granted to his predecessors-in-title. However, as pointed out above, the pre-existing right of his predecessors-in-title have not been proved on the basis of any material document. Further, the predecessors-in-title are ryot and that the lands are ryotwari lands have also not been established by the petitioner before the respondent. As stated above, the mandatory condition for grant of ryotwari patta is that there should be pre-existing right to the party claiming ryotwari patta and that the said party should be a ryot and that the lands should have been under cultivation prior to the vesting of the lands with the Government. Though the petitioner has placed certain partition deed said to have been entered into between Ramanada Iyer and his sons of whom Venkatarama Iyer is one, however, S. No.126, which is the subject land does not find place in the same. However, this Court is not entertaining the said document very much as the same is not authenticated in any manner and, therefore, no reliance can be placed on the same. Further, no material whatsoever has been placed before the Court to show as to how the said lands came into possession of Ramanada Iyer and that being the case, mere partition deed would not be the basis for this Court to take any decision contra to the one taken by the respondent.



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23. Further, it is evident from the materials placed before this Court that there is a categorical entry in the register that the subject lands are “Devadayam – “Perumal Maniyam” and thereto, it is seen that patta has been given to “Perumal Koil Dharmakartha Venkataraman”, which in effect could only mean that it is a service inam and it cannot be a ryotwari patta granted exclusively to Venkatarama Iyer and Subramania Iyer, which could be alienated by them at a later point of time. When the lands are allegedly held as service inam by the said individuals, the same cannot be alienated. However, it is to be pointed out that the said individuals do not claim to be performing any pooja to the temple and such being the case, the said individuals, as Dharmakartha could only hold the property for the benefit of the temple and cannot alienate the same for their betterment.

24. Further, a careful perusal of the order passed by the respondent reveals that the respondent has carefully analysed all the materials and has come to the definitive conclusion that the Settlement Tahsildar has not adverted to the requisite materials, which were available with the Revenue Tahsildar and



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instead had relied on materials, which were not authenticated and based on the said documents had modified the entries in the revenue records. Such being the case, the respondent had rightly interfered with the order passed by the Settlement Tahsildar in exercise of powers conferred on him as the entries sought to be modified are not established in any proper form. Therefore, this Court is of the considered view that there is no infirmity or perversity in the order passed by the respondent and the same does not require any interference.

25. For the reasons aforesaid, this writ petition deserves to be dismissed and, accordingly, the same is dismissed. Consequently, M.P. 2/2013 is closed. There shall be no order as to costs.

12.09.2022

Index : Yes / No

Internet : Yes / No

GLN

To

The Revenue Divisional Officer
Tambaram, Chennai.



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M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NO.21171 OF 2013**

**Pronounced on
12.09.2022**