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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7504 of 2005 and W.M.P.No.8203 /2005

V.Kannappan

...Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Revenue Department,
Fort St.George, Chennai 9.
- 2.The Special Commissioner and Commissioner of
Land Administration,
Chepauk, Chennai 600 005.
- 3.The District Revenue Officer,
Virudhunagar.
- 4.The Revenue Divisional Officer,
Sivakasi.
- 5.The Tahsildar,
Sivakasi, Virudhunagar District.
- 6.Chinna Ramasamy
- 7.Periya Ramasamy (died)
- 8.Jagannathan
- 9.Mrs.Bharathiammal
- 10.R.Jayasekar
- 11.Mrs.R.Rani
- 12.Dr.R.Mohan
- 13.Mrs.Kalaivani



14.Mrs.Kaladevi

(R9 to R14 are substituted as Lrs of the deceased R7 vide order dated 10.07.2019 made in W.P.MP.No.250/2012) ...Respondent

PRAYER: The Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus to call the entire records from the 2nd respondent pertaining to the proceedings made in his proceedings No. R.Dis. (K3) 52239/94, dated 16.5.2000 and quash the same and consequently forbear the respondent 1 to 5 or their agents men subordinates etc, from in any way assigning the petitioners land widely known as ALWAR NAICKER OORANI, situated in Old Pymash NO.316/319, Resurveyed survey No. 282/1, originally and thereafter sub-divided as survey No.282/1 282/7 and 282/8 at Naranapuram Village.

For Petitioner : Mr.M.Sriram
For RR1 to RR5 : Mr.T.Chezhiyan
Additional Government Pleader
For RR6 and R7 : Mr.A.Sivaji
For RR8 : Mr.Jagannathan
For RR9 to RR14 : Mr.Poonkundran

O R D E R

The petitioner has filed this petition for Writ of Certiorarified Mandamus to call for records relating to the impugned order passed by the respondent dated 18.10.2021 and quash the same and consequently direct the respondent to register the rectification deed dated 18.10.2021 within a time frame as fixed by this Court.

2. The petitioner aggrieved against the assignment of a Oorani in favour of the respondents 6 to 8 by the 2nd respondent has filed the present petition.

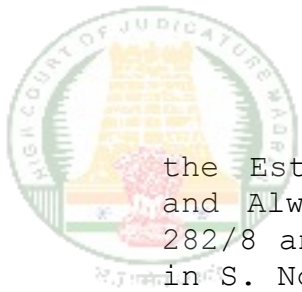
3. Facts leading to the present round of litigation is that the Alwar naicker Oorani which is situate in Old Pymash No.316-319, which was assigned S.F.No.282 under the resurvey and further subdivided into 282/1, 282/7 and 282/8 of Naranapuram Village, originally belonged to Akkal Naicker @ Venkatasamy. Thereafter, the petitioner and his two brothers, succeeded to the property as legal heirs. In the earlier litigations of the year 2021 in A.S.No.46/24, as per the Compromise Decree, the land was declared to be that of Venkatasway Naicker and



therefore, the possession continued with the family of the petitioner right from that date. While so, the entire village of Naranapuram was notified and taken over by the Government under the Tamil Nadu Estate (Abolition and Conversion into Ryothwari) Act, (Act 26/1948) and ryothwari settlement was introduced on 1.10.1951 and in the said Act, the lands in question has been registered as private oorani and it vested with the Government, and no claim from any one was entertained and the claim made by the petitioner has been specifically rejected by the Government vide order dated 22.03.1996. While so, one Chinna Narayanasamy and Andalammal managed to obtain patta in respect of this oorani and the land in question was reclassified and shown as ''Assessed Waste Dry''. However, when claimed title over the said lands, the District Revenue Officer, Virudhunagar, by his proceedings dated 19.08.94, cancelled the assignment made in favour of the said two persons and thereafter, the descendants of the said persons / respondents 9 to 14 seems to have moved the Commissioner, as against the orders of the 3rd respondent dated 19.08.1994. The 2nd respondent without proper appreciation of the facts and circumstances, allowed the revision filed by the respondents 6 and 7 herein and the 6th respondent started to take steps to plot out the said Oorani. It is also alleged that the resident association has also given petitions to the authorities, relating to the issue. It is therefore necessary that the impugned orders of the 2nd respondent dated 16.05.2000 be cancelled. Therefore, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that patta was issued not under the Main Act, but under G.O.Ms.NO.1300, Revenue Department, dated 30.04.1971, which disabled the persons who are in long possession and enjoyment of the land even prior to the taking over of the land, to apply for ryotwari patta. Therefore, to bring the private respondents within the purview and entitlement, the authorities and the assignees colluded to reclassify the land as ''Assessed Waste Dry'' and made assignment in favour of the private respondents, which is contrary to the provisions of the Act, and, hence prays for allowing of this petition.

4. Learned Addl. Government Pleader appearing for the respondents, adverting to the counter affidavit filed by the respondents, submitted that patta was cancelled by the District Revenue Officer, Virudhunagar, under Clause 15-12(3)(IV) of the Revenue Standing Order and the lands were resumed to the government. It is the further submission of the learned Addl. Government Pleader that on the take over of the Naranapuram Inam Estate by the Government on 1.10.1951 under the provisions of



the Estates Abolition Act, ryotwari settlement was introduced and Alwar Naicker Oorani was subdivided into 282/1, 282/7 and 282/8 and that at the time of settlement, an extent of 1.14 acre in S. No.282/7 was classified as "Assessed Waste Dry".

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5. It is the further submission of the learned Addl. Government Pleader that in this case, patta was granted to the petitioner under the provisions of the Outside the Scope of Abolition Act in which the continuous possession and enjoyment of the lands prior to on and from the notified date is the main criteria. Therefore, the Special Commissioner and Commissioner of Land Administration has rightly allowed the patta in favour of the 6th respondent. It is the further submission of the learned Addl. Government Pleader that the order has been passed after compliance of principles of natural justice and in view of the classification of the land and, therefore, no interference is called for with the order passed by the 2nd respondent.

6. 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.

7. Though it is the claim of the petitioner that the land in S.F. No.282/7 admeasuring an extent of 1.14 acres is Oorani and it belongs to him, however, the revenue records reveal that the said lands are classified as "Assessed Waste Dry". It is to be pointed out that patta was given for the said lands to the 6th respondent way back in the year 1974. The 6th respondent had been in possession and enjoyment of the lands since 1974 and no claim was made against the said lands by the petitioner. Only in the year 1994, on the proposal of the Revenue Divisional Officer, steps were taken up for cancellation of the assignment, which resulted in resumption of lands by the government by passing of order by the District Revenue Officer, however, the 2nd respondent, on revision, had set aside the said order and allowed the revision.

8. It is borne out by record that the Alwar Naicker Oorani in S.F. No.282 was subdivided into S.F. Nos.282/1, 282/7 and 282/8 and at the time of settlement, an extent of 1.14 acre in S.F. No.282/7 has been classified as "Assessed Waste Dry". It is to be pointed out that had the lands not been "Assessed Waste Dry" and had it been Oorani, as claimed by the petitioner, it would not have been in possession of the petitioner prior in point of time when the lands were taken over as Inam lands. Further, had the said land been an Oorani, definitely, it would not have been transferred to any person and it would have remained vested with the Government. But it is even the admitted



case of the petitioner that the said land was settled in favour of the 6th respondent. However, it is the claim of the petitioner that the collusion between the 6th respondent and the revenue officials led to the classification of the land as "Assessed Waste Dry". There are no materials to prove the said stand of the petitioner. Further, it is to be pointed out that it is the finding recorded by the 2nd respondent that the said land is not Oorani and that there is no water stagnation in the said land. Further the revenue records also does not anywhere show that the said lands were Oorani at any point of time. That being the case, the settlement having been made in favour of the 6th respondent, even in the year 1974 and that the cancellation has taken place only on the proposal made in the year 1994, the petitioner has come before this Court only in the year 2005 claiming that the said lands are Oorani lands. If at all the lands are Oorani lands, no right vests with the petitioner to claim interest over the said lands. The attempt on the part of the petitioner is wholly a flawed exercise, which does not inspire the confidence of this Court, more so, when the materials available on record reveal that the 2nd respondent, on proper appreciation of all the materials, has allowed the revision in favour of the 6th respondent.

9. For the reasons aforesaid, this Court is of the considered view that no interference is warranted with the order passed by the 2nd respondent. Accordingly, the writ petition fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

s/d-
Assistant Registrar

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Sub-Assistant Registrar

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To

1. The Secretary to Government,
Revenue Department,
Fort St. George, Chennai 9.



2.The Special Commissioner and Commissioner of
Land Administration,
Chepauk, Chennai 600 005.

3.The District Revenue Officer,
Virudhunagar.

4.The Revenue Divisional Officer,
Sivakasi.

5.The Tahsildar,
Sivakasi, Virudhunagar District.

+1 CC to Mr.G.Poonkundran, Advocate sr 14303

+1 CC to Mr.M.Sriram, Advocate sr 14563.

+1 CC to The Government Pleader sr 15082.

W.P.No.7504 of 2005

GPL(CO)
SP(31/03/2022)