



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

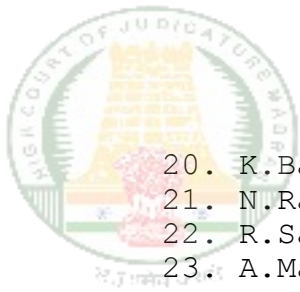
W.A.NO.1131 OF 2022
AND
C.M.P.NO.6973 OF 2022

1. J.Pushparaj
2. R.Maya
3. R.Govindaraj
4. G.Kalavathi

... Appellants

.Vs.

1. The State Rep. by its
The Principal Secretary cum
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
2. The Settlement Officer,
Chennai.
3. Sri Bharathwajeswarar Temple,
Rep. by its Executive Officer,
Puliyur, Kodambakkam,
Chennai - 600 026.
4. J.Mohanraj
5. J.Udhayakumar
6. J.Raghumani
7. V.M.Shyamala
8. E.Alagumani
9. N.Mahesh
10. A.Sampath
11. A.Banumathy
12. R.Saroja
13. C.Subbulakshmi
14. M.Panneer Selvam
15. K.Arulmurugan
16. K.Meenakshi Sundaram
17. P.Umapathy
18. A.Andalammal
19. S.Chakravarthi Valli



20. K.Bangaru Ammal
21. N.Ramachandran
22. R.Saroja
23. A.Mahendran
24. K.Kanaga Karunakaran
K.M.Pappiah (Died)

25. C.G.Vilasisni
26. S.Lakshminarayanan
27. Hajira Bee
28. S.Mohammed Ali
29. S.Khaja Shariff
30. S.Fatima

... Respondents

PRAYER:-

Appeal filed under Clause 15 of the Letters Patent against the order dated 20.12.2021 passed in W.P.No.11076 of 2013 on the file of this Court.

PRAYER IN W.P.NO.11076 OF 2013:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent in reference Ref.K1-15251/2009, dated 12.02.2013 and quash the same and direct the Respondent to grant patta for their buildings and lands at Block-3, Pulliyur Village, Vadapalani, Chennai.

For Appellants : Mr.S.Nambirajan

For Respondents : Mr.P.Muthukumar
State Government Pleader
Assisted by
Mrs.R.Anitha
Special Government Pleader
For R-1

JUDGMENT

(Judgment of the Court was delivered by
the Hon'ble Chief Justice)

The writ appeal is directed against the judgment dated 20.12.2021 passed by the learned Single Judge dismissing the writ petition preferred by the appellants to challenge the order dated 12.02.2013 and further to seek a direction on the



respondents to grant patta for the land at Block 3, Pulliyur Village, Vadapalani, Chennai.

2. The writ petition was filed stating that the appellants and their predecessors owned buildings in the land comprised in T.S.No.14, 15 and 16 situated at Block No.3, Pulliyur Village, Egmore-Nungambakkam Taluk and are in possession and enjoyment of the land. They constructed buildings over it, but were not granted ground rent pattas. A representation was thus made on the Commissioner of Land Administration and on verification of the revenue tax receipts and continuous possession, they were granted the ground rent pattas on 26.08.2004. Aggrieved by the same, the Deputy Commissioner, HR and CE, filed an appeal on the ground that the land belongs to the third respondent, that is, the temple citing the proceedings of the Settlement Tahsildar III, Chengalpet, dated 15.05.1971.

3. The appellants thereupon came to know that the enquiry for the patta in the land was a suo motu enquiry and the scope of the enquiry was to determine whether the appellants were entitled to the ground rent pattas. It was also alleged that no material was produced by the third respondent Temple to prove its ownership over the land in question. The Settlement Officer, however, directed to issue ground rent patta in favour of the third respondent on the ground that the appellants had already been paying rent for the land in question.

4. That apart, the contention was that the inam grant was for pooja services of the temple and since the inam is a service inam, the poojari, who has rendered service to the temple, is entitled to grant of patta and the third respondent is entirely different from the service inam land. The temple authority failed to produce any evidence to show that the temple in question and the third respondent are one and the same and owns the title of the land. The order under challenge should have been interfered by the learned Single Judge.

5. The contention in reference to Section 13 (1) of the Abolition Act and the law laid down in that regard was also referred by citing the judgment of the Division Bench rendered in the case of K.Vellappa Gounder vs. K.S.Thirugnanasambandam Chettiar, reported in 1980 (93) LW 707.

6. On the aforesaid contentions, the learned Single Judge analysed the issue after taking into consideration the counter



filed by the respondents. On perusal of the materials, the learned Single Judge found that Pulliyur Village was taken over by the Government under the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948. Since the subject lands were inam lands, the Ryotwari Settlement was introduced under the provisions of Tamil Nadu Inam (Abolition and Conversion into Ryotwari) Act of 1963. The Settlement Tahsildar in his proceedings dated 15.05.1971 had allowed the ground rent pattas in respect of the subject land under Section 13(1) of the Act of 1963 in favour of the third respondent. The Settlement Tahsildar rejected the request of the appellants for grant of patta as they were the tenants under the third respondent. It was even after taking into consideration that superstructure has been constructed by the appellants. The order of the Settlement Officer was not challenged by the appellants and further, The Tahsildar, Egmore-Nungambakkam, in his proceedings dated 26.08.2004 had transferred the patta in the names of the appellants. Aggrieved by the same, the third respondent filed a revision before the District Revenue Officer, Chennai, who, vide order dated 12.08.2005, set aside the order passed by the Tahsildar, Egmore-Nungambakkam and restored the patta in the name of the third respondent. Against the said order, the appellants preferred a revision before the Commissioner of Land Administration and after a detailed enquiry, the Commissioner held that the issue was already settled in favour of the third respondent in the year 1971 itself. Feeling aggrieved, the appellants filed appeal before the Inam Abolition Tribunal, which was also rejected since the proceeding is in the matter of transfer of registry on the order passed by the District Revenue Officer and the Commissioner of Land Administration has also confirmed the order. Thus, the appellants could not have any claim over the land in question.

7. It has been noticed by the learned Single Judge that the appellants filed petition before the Settlement Officer seeking cancellation of the order of the Settlement Tahsildar dated 15.05.1971 and also a suit in C.M.A.No.87 of 2006 before the City Civil Court, Chennai. However, on request, the entire records were transferred to the Settlement Officer and after due enquiry, the Settlement Officer set aside the order passed by the Settlement Tahsildar dated 15.05.1971 and ordered the land to be treated as Government Poromboke. Aggrieved, the appellants and the third respondent filed revisions before the first respondent and by the impugned order, the first respondent restored the order of the Settlement Tahsildar dated 15.05.1971.

8. The learned Single Judge analysed the issue in detail and on consideration of the stand taken by the appellants



before the first respondent that they have stopped paying rent to the third respondent for a long time, held that the said fact proves that the appellants were originally tenants under the third respondent and hence, their claim for patta was rightly rejected by the Settlement Tahsildar. It was also found that the issue was settled in the year 1971 itself and the appellants have not challenged the order of the Settlement Tahsildar. Further, the learned Single Judge observed that the Settlement Officer has no power to entertain the petition under the Act of 1963 and thus, cannot set aside the order of the Settlement Tahsildar dated 15.05.1971. The learned Single Judge held that instead of seeking remedy before the Civil Court, the suit filed by the appellants was transferred to the Settlement Officer on his request, who had no authority to deal with the same and only the Civil Court is competent to decide the possession and other claims made by the appellants. Accordingly, finding no illegality in the order of the first respondent, the learned Single Judge dismissed the writ petition.

9. The learned counsel submits that the appellants never made a request to transfer the matter from the Civil Court to the Settlement Officer for challenge to the order passed by the Settlement Tahsildar. But, he could not refer to any pleading to this effect in the appeal nor any argument before the learned Single Judge in that regard. It is more so when a specific finding has been recorded by the learned Single Judge regarding the request of the appellants to transfer the matter from Civil Court to the Settlement Officer, who was having no jurisdiction to adjudicate the issue in reference to the order of the Settlement Tahsildar.

10. In view of the above, though the appeal has been preferred, it is without questioning the finding recorded by the learned Single Judge and otherwise, reference of all the litigations in respect of the land in question has been made by the appellants and even the appeal preferred before the Inam Abolition Tribunal was also dismissed. After the dismissal of the appeal, there is nothing on record to show that it was further challenged with a favourable order for the appellants

11. For all the reasons, we do not find any ground to either interfere in the order passed by the learned Single Judge or issue the direction on the respondents to grant patta to the appellants, when the entire issue was adjudicated earlier and examined at different levels, which is not only in the revision, but in the appellate jurisdiction before the Tribunal with adverse order against the appellants.



The Writ Appeal, accordingly, fails and the same is dismissed. No costs. Consequently, C.M.P.No.6973 of 2022 is closed.

WEB COPY

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Principal Secretary cum
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
2. The Settlement Officer,
Chennai.

+1cc to Mr.S.Nambirajan, Advocate, S.R.No.33401
+1cc to the Government Pleader, S.R.No.33145

W.A.NO.1131 OF 2022

GPL(CO)
PBS/15/06/2022