



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	PRONOUNCED ON
15.03.2022	21.03.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS. 8098 OF 2012 & 5313 OF 2014

AND

M.P. NO. 1 OF 2012 & M.P. NOS. 1 & 2 OF 2014

M.Mahmood Maraikkayar ..Petitioner in WP 8098/2012

Mrs. Revathy @ Fathima Rehana ..Petitioner in WP 5313/2014

- Vs -

1.The District Collector
Coimbatore District
Coimbatore.

2. The District Revenue Officer
Coimbatore.

3. The Tahsildar
Coimbatore North,
Coimbatore.

..RR-1 to 3 in both petitions

1. R.Kuppuraj

2. Ms. R.Kavitha

..RR-4 & 5 in W.P 8098/2012

W.P. No.8098 of 2012 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records pertaining to proceedings in Na. Ka. No.42793/2010/E1 dated 24.02.2012 by the 2nd respondent and quash the same and also to direct the 3rd respondent to issue patta in the name of the petitioner within a time frame as may be fixed by this Court.

W.P. No.5313 of 2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari to call for the entire records pertaining relating to the impugned order dated 24.02.2012 in Na. Ka. No.42793/2010/E1 dated passed by the 2nd respondent and quash the same.



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For Petitioners : Mr. T.V.Vineeth Kumar
in WP 8098/12
Mr. L.Mouli in WP 5313/14

For Respondents : Mr.V.Veluchamy, AGP for RR-1 to 3
M/s. Karan & Uday for RR-4 & 5
in W.P.No.8098/2012

COMMON ORDER

The present petitions have put in issue the impugned order in and by which the 2nd respondent had cancelled the patta and consequentially had directed the 3rd respondent to resume the lands in occupation of the petitioners.

2.It is the averment of the petitioners that the property formed part of 1 acre 10 cents comprised in survey No.143/2 of No.2, Goodalur Village, Coimbatore Taluk, was originally possessed by Venkatasamy Naidu and on his demise, the lands were inherited by his son Ranganathan, including the tamarind trees, which stood on the said lands. It is the further averment of the petitioners that by assessment dated 26.7.1974, the Special Tahsildar, Coimbatore, assigned the said property in the name of the said Ranganathan, which was later inspected by him later and which led to the issuance of patta No.3135 by the Special Tahsildar, Coimbatore for an extent admeasuring 1 acre 10 cents comprised in survey No.143/2.

3. It is the further averment of the petitioners that the said Ranganathan died intestate on 14.6.98 leaving behind three children, viz., Kuppuraj, Revathi and Kavitha, as legal heirs, who, thereafter, entered into a partition dated 15.3.2007, which was registered vide Document No.4336/2007 on the file of Sub Registrar, Periyannayakanpalayam, in and by which Kuppuraj was given 50 cents of land and Revathi and Kavitha each were provided with 30 cents of land. Based on the said partition, separate patta was also obtained by the said legal heirs in respect of their respective shares in respect of the land comprised in survey No.143/2, which was sub-divided as 143/2A, 143/2B and 143/2C by the Tahsildar, Coimbatore North, vide order dated 14.9.2010 and since then the said persons are in exclusive possession and enjoyment of the property. It is the further averment of the petitioners that the 2nd respondent issued notice asking the petitioners to appear for enquiry on the basis of the complaint made by some third parties stating that the lands under the occupation of the petitioners are poramboke lands and, therefore, the patta issued to Ranganathan should be cancelled. The petitioners participated in the enquiry and submitted all the documents, upon consideration of which the impugned order



has been passed and aggrieved by the same, the present petitions have been filed.

4. While the petitioner in W.P. No.5313/14 is the daughter of Ranganathan, who was alleged to have been issued with patta initially, the petitioner in W.P. No.8098/12 is the subsequent purchaser of the lands from Kuppuraj and Kavitha, the son and daughter of Ranganathan, who are arrayed as respondents 4 and 5 in the said writ petition.

5. Learned counsel appearing for the respective petitioners vociferously submitted that patta was initially granted to Ranganathan by the Special Tahsildar and they are in continuous possession and enjoyment of the property without any interference. It is the further submission of the learned counsel that on the demise of the said Ranganathan, the properties devolved upon the legal heirs of the said Ranganathan, who have been in possession and enjoyment and subsequently, the legal heirs, viz., Kuppuraj and Kavitha, had sold their property to the petitioner in W.P. No.8098/12. Therefore, when the petitioners have been in possession of the lands continuously, the impugned order passed by the 2nd respondent cancelling the patta is wholly against law.

6.It is the further submission of the learned counsel for the petitioners that the name of Ranganathan finds place in patta No.3135, which ought to have been considered by the 2nd respondent in proper perspective to show title as provided u/s 6 of the Patta Passbook Act and the act of the 2nd respondent in declining the right to the legal heirs of the said Ranganathan is wholly impermissible and unsustainable.

7.It is the further submission of the learned counsel that even the patta No.3135 describes the lands as 'Coronation Thope', which is as early as in the year 1940 and that being the case, the stand of the respondent that the lands are Government Poramboke is not borne out by records and, therefore, the impugned order is unsustainable.

8.It is the further submission of the learned counsel for the petitioners that even the inspection report of the year 1975 shows that even during the assignment proposal in the year 1974, the said Ranganathan was in possession and enjoyment of the said lands and, therefore, the finding of the 2nd respondent that the property has been used for public utility is per se erroneous and that no evidence has also been referred to by the 2nd respondent to render the said finding.

9.It is the further submission of the learned counsel for the petitioners that with regard to the issuance of Patta



Passbook, jurisdiction is vested on the 3rd respondent and, therefore, the order passed by the 2nd respondent on the complaint of some third parties is wholly vitiated. Further, it is the submission of the learned counsel that Ranganathan has been issued with patta in the year 1987 and after a lapse of 24 years, the 2nd respondent passed the order with an intention to defeat the legitimate rights of the petitioners. It is the further submission of the learned counsel that the Tahsildar, who issued the patta, has not been examined by the 2nd respondent; rather deposition of certain Village Administrative Officers, who have given contradictory statements, have been taken to arrive at the conclusion, which officers are subordinates to the Tahsildar and, therefore, the enquiry is biased and the same cannot be the basis for passing the impugned order.

10. Per contra, learned Addl. Government Pleader appearing for respondents 1 to 3 submitted that even in the revenue records, even in the year 1974, the lands have been classified as 'Coronation Tope'. It is the further submission of the learned Addl. Government Pleader that the patta, which has been granted to the father of Ranganathan, shows that it is a temporary patta, which is evident from the chitta as is evident from the impugned order. It is the further submission of the learned Addl. Government Pleader that initially there was no classification shown in the revenue records, except for the lands been classified as poramboke, but all of a sudden in the Fasli year 1363, temporary patta has been granted in favour of the father of Ranganathan. Further, while inspection was carried out by the Tahsildar in the year 1975, it clearly shows that it was in connection with assignment proposal. Therefore, it is the submission of the learned Addl. Government Pleader that the petitioners as well as their predecessors did not have any title to the property. It is the further submission of the learned Addl. Government Pleader that the patta granted to Ranganathan has been cancelled on the ground that it is not only a Government Poramboke, but also the lands are 'Coronation Tope', which cannot be alienated even by way of assignment. Therefore, the grant of patta by the Tahsildar under the UDR scheme is erroneous and impermissible, which has been cancelled by the 2nd respondent in accordance with law and, therefore, no interference is warranted with the said order and, accordingly, prays for dismissal of these petitions.

11. Learned counsel appearing for respondents 4 and 5 in W.P. No.8098/12 supported the stand taken by the learned counsel for the petitioners and submitted that they came into possession of the lands from their father, viz., Ranganathan and they have been in possession and enjoyment of the same and patta has been granted in accordance with law and, therefore, the action of the



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

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

13. It is not in dispute that the lands were poramboke lands, which were under the occupation of Venkatasamy Naidu, the father of Ranganathan. It is also the admitted case of the petitioners that the tamarind trees, which were in the said survey lands were utilized by the said Venkatasamy Naidu and by his son Ranganathan. It is further evident from the deposition of Kuppuraj, the son of Ranganathan, from whom the petitioner in W.P. No.8098/12 had purchased the property, that the lands were in enjoyment of the Venkatasamy Naidu and on his demise, by his son Ranganathan, and that the said lands were poramboke lands in which tamarind trees were there, which were enjoyed by Venkatasamy Naidu and Ranganathan and towards the said enjoyment, the said Venkatasamy Naidu and Ranganathan were paying land tax. It is the further deposition of Kuppuraj that according to the revenue records, the said lands under the occupation of his father was Government Poramboke, which was classified as 'Coronation Tope' till the year 1987 and only in the year 1987, temporary UDR patta was granted to Ranganathan by the Special Tahsildar.

14. The above facts are evident from the deposition of Kuppuraj, the son of Ranganathan, as is evident from the impugned order. Though the petitioners claim that the statements of the Village Administrative Officers should not have been relied upon as they are subordinate to the Special Tahsildar, who issued the patta, yet it is an uncontrovertible fact that Kuppuraj has given his statement, which has been recorded and reproduced in the impugned order, which has not been disputed by the said Kuppuraj or the petitioners. Therefore, there is no embargo on the part of the 2nd respondent to rely on the same to arrive at a substantive finding. Therefore, to that extent, the contention raised by the petitioners does not merit acceptance.

15. Further, it is to be pointed out that Venkatasamy Naidu and his son Ranganathan, who had been in enjoyment of the lands, have been paying land tax with regard to their enjoyment of the tamarind trees. From the above, it is evident that the classification as 'Coronation Tope' relatable to the entries in the revenue records gain significance. Once the petitioners are paying land tax to the Government for enjoyment of the lands and the tamarind trees available on the said lands, the necessary inference that could be drawn is that the said lands were Government Poramboke lands and that the number of trees in the



said lands necessitated classification of the said lands as 'Coronation Tope'. In fact, the above classification of the lands as 'Coronation Tope' in the revenue records has not been disputed by the petitioners. Merely because the petitioners have been enjoying the said lands would not give them any right to patta, that too by the Special Tahsildar under the UDR scheme when the said lands have been classified as 'Coronation Tope'. It is to be pointed out that insofar as 'Coronation Tope' is concerned, patta is not issued in respect of the said lands, even if that be Government Poramboke lands, to any person. The said fact has been clearly recorded by the 2nd respondent in the impugned order. Further, it is also to be pointed out that alienation of lands classified as 'Coronation Tope' is impermissible. Further, the particular provision in the Revenue Standing Orders also prohibits the grant of patta for lands, which have been classified as 'Coronation Tope'.

16. Further, the statement of Kuppuraj also shows that the lands have been utilized as public utility and was put to use for the benefit of the public. Though it is the contention of the petitioners that there are no materials based on which such a finding has been recorded by the 2nd respondent, however, the said submission is liable to be rejected for the simple reason that the statement of Kuppuraj reveals that the well in the said land was used for the purpose of drawing water and being used for drinking purpose not only for the public, but also for the livestock in the said area. This clearly fortifies the stand of the 2nd respondent that the land is a Government poramboke land, classified as 'Coronation Tope' and the said land was used as a public utility, in addition to it being enjoyed by Ranganathan, by paying the necessary land tax. That being the established position, as evident from the impugned order passed by the 2nd respondent, the continued occupation, including the sale of the said land to the petitioner in W.P. No.8098/12 is wholly impermissible, which, when brought to the notice of the 2nd respondent, has rightly resulted in the act of cancellation of patta granted to Ranganathan, which was later sub-divided, and also the direction for resumption and safeguard of the lands by the appropriate authority.

17. In view of the aforestated position, which is borne out by record, as culled out in the impugned order, the case of the petitioners that the lands have been assigned to them for which patta has been granted and, therefore, the impugned order cancelling the said patta and resuming the lands back to the Government is wholly unsustainable is too big an ask.

18. It is also to be pointed out here that mere grant of patta will not confer title to the individual on the property, as mass evidence is required for establishing the question of



title. A Division Bench of this Court in Kuppuswami Nainar - Vs - The District Revenue Officer & Ors. (1995 (1) MLJ 426), has held that expression of opinion of the revenue officials in the patta proceedings cannot be deemed to be a decision, but is only expression of opinion and is only to support their decision in granting or negating patta. The civil court alone is clothed with jurisdiction to adjudicate the question as to whether the person claiming patta is the title-holder of the land. For better appreciation, the relevant portion of the order is extracted hereunder :-

"3. No provision is brought to our notice in the Standing Orders of the Board of Revenue taking away the jurisdiction of the civil court to adjudicate upon the question of title relating to immovable property. Revenue Officers in a patta proceedings may express their views on the question of title, but such expression of opinion or decision is not conclusive and it is only intended to support their decision for granting patta. Ultimately, it is the civil court which has to adjudicate the question as to whether the person claiming patta is the title-holder of the land. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil court, which has to decide the question without reference to the decision of the revenue authorities."

(Emphasis Supplied)

19. Further, it is to be pointed out that Government poramboke, which are classified as 'Coronation Tope' in the absence of any permission, patta cannot be granted by the Special Tahsildar under the UDR Scheme. However, in the present case, irrespective of the fact that the land has been classified as 'Coronation Tope' and that the said lands are Government Poramboke, it is not known as to how and the basis on which the Special Tahsildar has granted patta under the UDR Scheme.

20. From the above it transpires that neither the grant of the alleged patta would confer title on the said Ranganathan, which would stand passed on, on his demise, to his legal heirs, nor the Special Tahsildar is empowered to grant patta under the UDR Scheme. Therefore, the patta granted by the Special Tahsildar suffers the vice of illegality and irregularity and the same has been interfered with, rightly, by the 2nd respondent.

21. For the reasons aforesaid, this Court is of the considered opinion that there is no perversity or illegality in the order passed by the 2nd respondent, impugned herein and,



therefore, both the writ petitions fail and the same deserve to be dismissed. Accordingly, both the writ petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The District Collector
Coimbatore District,
Coimbatore.
2. The District Revenue Officer
Coimbatore.
3. The Tahsildar
Coimbatore North,
Coimbatore.

+1cc to Mr.T.V.Vineeth Kumar, Advocate, S.R.No.19021

+1cc to Mr.L.Mouli, Advocate, S.R.No.18998

W.P.NOS.8098 OF 2012 &
5313 OF 2014

SSD(CO)
RGA(04/04/2022)