



W.P.No.7037 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7037 of 2016

1.P.Thanikachalam
2.P.Sampath

... Petitioners

Vs.

1.The Special Commissioner and
Commissioner of Land Administration,
Chepuak,
Ezhilagam,
Chennai – 600 005.

2.The District Revenue Officer,
Kancheepuram,
Kancheepuram District.

3.The Revenue Divisional Officer,
Kancheepuram,
Kancheepuram District.

4.The Tahsildhar
Sriperumbudur Taluk,
Kancheepuram District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus calling for the records in Ref
D.Dis.K3/26274/2014 dated 09.12.2015 on the file of the first



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respondent confirming the order of the second respondent in Na.Ka. 5109/2013/N3/ dated 07.08.2014 confirming the order of the third respondent in Na.Ka.No.3454/12/A2 dated 18.12.2012 confirming the order of the fourth respondent in Na.Ka.No.3455/2008/A-7 dated 26.03.2008 and quash the same and direct the respondents to issue patta for the property for an extent of 81 cents, comprised in S.No. 1/1 (Paimash No.1/1C) an extent of 36 cents comprised in S.No.1/3 part, an extent of 35 cents comprised in S.No.1/4 part, an extent of 33 cents comprised in S.No.1/5 part and 1 acre out of 2 acre 3 cents comprised in S.No.2, situate at Kottur Village, Sriperumbudur Taluk, Kancheepuram District.

For Petitioners : M/s.V.Chandrakanthan
For Respondents : Mr.V.Manoharan
Additional Government Pleader

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records in Ref D.Dis.K3/ 26274/2014 dated 09.12.2015 on the file of the first respondent confirming the order of the second respondent in Na.Ka.5109/2013/ N3/dated 07.08.2014 confirming the order of the third respondent in Na.Ka.No.3454/12/A2 dated 18.12.2012



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confirming the order of the

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fourth respondent in Na.Ka.No.3455/2008/A-7 dated 26.03.2008 and quash the same and direct the respondents to issue patta for the property for an extent of 81 cents, comprised in S.No. 1/1 (Paimash No.1/1C) an extent of 36 cents comprised in S.No.1/3 part, an extent of 35 cents comprised in S.No.1/4 part, an extent of 33 cents comprised in S.No.1/5 part and 1 acre out of 2 acre 3 cents comprised in S.No.2, situate at Kottur Village, Sriperumbudur Taluk, Kancheepuram District.

2.The case of the petitioners is that the petitioners are the owners of the subject land. Kottur Village is an ex-Zamin Village taken over by the Government on 31.01.1951 under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, in fasli 1370 (i.e., 1960). Originally, the Assistant Settlement Officer, Kancheepuram, in his proceedings dated 29.05.1961 held that the lands were liable to submersion under the Coovam Hissa Tank and refused to grant patta for the lands and directed to treat the land as tank poramboke.



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3.The further case of the petitioners is that subsequently, the

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Board of Revenue (S.E.), Madras, vide proceedings dated 13.05.1971, set aside the order of the lower Settlement Authorities and directed to consider the issue of ryotwari patta to the claimants wherever satisfactory evidence is produced to prove that the land is a ryoti land. Thereafter, the Assistant Settlement Officer, Chengalpattu, conducted elaborate enquiry with the claimants and revenue Authorities and passed an order on 31.03.1975 granting ryotwari patta to the claimants under Section 11(a) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act and the said order became final.

4.The further case of the petitioners is that ryotwari patta was granted for the said lands, however, the same was not carried out in the revenue records. The petitioners acquired part of the subject land from their father and part of the subject land was purchased by them. After the demise of their father, the petitioners made representation to the fourth respondent seeking issuance of patta in their favour, however, the fourth respondent vide order dated 26.03.2008 stated that the land has been recorded as Eri Ulvai.



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5.The further case of the petitioners is that aggrieved by the

order of the fourth respondent, the petitioners filed appeal before the District Revenue Officer. The District Revenue Officer directed the petitioners to file appeal before the Revenue Divisional Officer. Accordingly, the petitioners filed appeal before the Revenue Divisional Officer and since there was no response, the petitioners filed W.P.No.21044 of 2011 before this Court and pursuant to the order of this Court dated 14.09.2011, the Revenue Divisional Officer dismissed the appeal. Aggrieved by the same, the petitioners filed appeal before the Collector, Kancheepuram and since there was no response, the petitioners filed W.P.No.26775 of 2013 before this Court and this Court vide order dated 06.11.2013, directed the Collector, Kancheepuram to forward the appeal papers to the District Revenue Officer, Kancheepuram and also directed the District Revenue Officer, Kancheepuram, to dispose of the appeal. Thereafter, the District Revenue Officer, Kancheepuram, vide order dated 07.08.2014 dismissed the appeal.

6.The further case of the petitioners is that challenging the



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order dated 07.08.2014, the petitioners filed revision before the first respondent and since there was no response, the petitioners filed

W.P.No.2641 of 2015 before this Court and pursuant to the order of this Court dated 03.02.2015, the first respondent vide order dated 09.12.2015 dismissed the revision. Challenging the same, the petitioners have filed this writ petition.

7.The learned counsel appearing for the petitioners submitted that ryotwari patta was granted to the subject lands based on the proceedings of the Board of Revenue (S.E.), Madras, dated 13.05.1971 and till date that proceedings was not challenged and it became final. Once ryotwari patta was granted by the Assistant Settlement Officer, the petitioners are entitled for patta in their favour, however, their request for issuance of patta was rejected by the Revenue Officials, which is not sustainable one.

8.The first respondent has filed counter affidavit, wherein, it is stated that the Board of Revenue (S.E.) in its order dated 13.05.1971, set aside the order passed by the Settlement Authorities so far as the Kulam Korvai lands are concerned and directed issue of



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patta under Section 11(a) of the Abolition Act, wherever satisfactory evidences are placed before the Assistant Settlement Officers.

The Settlement

Authorities should treat the order as a general order authorising the Assistant Settlement Officers to consider the question of grant of patta notwithstanding any earlier orders passed rejecting the request for grant of patta.

9.In the counter affidavit it is further stated that the petitioners have not furnished records to show that they are the owners of the land and that the lands are registered as "sarkar poramboke" and entered in the remarks column as Eri Ulvoi in the Settlement Register prepared after taking over the village of Kottur under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 by the Government in G.O.No.3157, Revenue Department, dated 09.12.1950 and the village was taken over by the Government on 03.01.1951. The Assistant Settlement Officer, Kancheepuram, vide order dated 29.05.1961 held that the lands were liable to submersion under the Coovam Hissa Tank and thus ryotwari patta was not admissible under the Act XXVI of 1948 and refused to grant patta for the lands and



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directed to treat the land as tank poramboke.

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10.In the counter affidavit it is further stated that based on the proceedings of the Board of Revenue (S.E.) dated 13.05.1971, the Assistant Settlement Officer, Chengalpattu, conducted elaborate enquiry and passed orders on 31.03.1975 to grant ryotwari patta to the claimants under Section 11(a) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, contrary to the orders of the Government in G.O.Ms.No.1300, Revenue Department, dated 30.04.1971.

11.In the counter affidavit it is further stated that if patta is granted to the subject lands the inflow of water to the Eri would be stopped and the storing of water in the Eri for cultivation and drinking purpose would be prevented.

12.Heard the arguments advanced on either side and perused the materials available on record.

13.The facts in the present case are not in dispute. Admittedly,



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Kottur Village is an ex-Zamin Village taken over by the Government on 31.01.1951 under the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) in fasli 1370 (i.e., 1960). Originally,

the Assistant Settlement Officer, Kancheepuram, in his proceedings dated 29.05.1961 held that the lands were liable to submersion under the Coovam Hissa Tank and refused to grant patta for the lands and directed to treat the land as tank poramboke. The said proceedings was not challenged in the manner known to law.

14.Subsequently, the Board of Revenue (S.E.), Madras, vide proceedings dated 13.05.1971, set aside the order of the lower Settlement Authorities and directed to consider the issue of ryotwari patta to the claimants wherever satisfactory evidence is produced to prove that the land is ryotwari. Thereafter, the Assistant Settlement Officer, Chengalpattu, conducted elaborate enquiry with the claimants and revenue Authorities and passed an order on 31.03.1975 to grant ryotwari patta to the claimants under Section 11(a) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act.



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15.Though the petitioners claim that once ryotwari patta was granted by the Assistant Settlement Officer, the petitioners are entitled for patta in their favour, it is not the case of the petitioners that the subject lands are not water poramboke. In respect of water body, no

Authority, much less the Assistant Settlement Officer is empowered to grant ryotwari patta.

16.The petitioners made representation for mutation of revenue records in their favour, based on the order of the Assistant Settlement Officer, Chengalpattu, dated 31.03.1975. When the land is shown to be a water body in the revenue records, it cannot be mutated in favour of the petitioners on the basis of the order passed by the Assistant Settlement Officer.

17.In this regard, it is necessary to necessary to refer Section 11 of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, for the purpose of determining the duty, scope and power of the Assistant Settlement Officer to issue ryotwari patta. For better appreciation, the relevant provision is quoted hereunder:-



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'11.Lands in which ryot is entitled to ryotwari pattas.- Every ryot in an estate shall, with effect on and from the notified date, be entitled to a ryotwari patta in respect of -

(a) all ryoti lands which, immediately before the notified date, were properly included or ought to have been properly included in his holding and which are not either lanka lands or lands in respect of which a landholder or some other person is entitled to a ryotwari patta under any other provision of this Act; and

(b) all lanka lands in his occupation immediately before the notified date, such lands having been in his occupation or in that of his predecessors-in-title continuously from the 1st day of July 1939:

Provided that no person who has been admitted into possession of any land by a landholder on or after the 1st day of July 1945 shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.'

18.Even a bare perusal of the aforesaid provision shows that



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only in respect of lands, which have been shown in the holdings of the ryot immediately before the notified date would be entitled to ryotwari patta and the said lands should not be lanka lands or lands for which the person is entitled to a ryotwari patta under any other provision of the Act. Further, proviso has been provided in the said provision that no person shall be admitted into possession of any land by a land holder on or after the 1st day of July, 1945, shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

19. In the case on hand, as aforesaid, the lands have been shown in the revenue records as "water body", which cannot be given to any person by any Authority under the Act, 1948. Further, there is no material placed before this Court by the petitioner to show the date when he came into possession of the said lands. Merely because on the directions of the Commissioner, the Assistant Settlement Officer has issued ryotwari patta would not be a ground for the petitioners to claim regular patta in respect of the lands, which are alleged to have been under their occupation, more so when the said lands are shown as water body in the revenue records.



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20.Further, there is no material placed before this Court to show the possession of the petitioner prior to 1st July, 1945 and that being the case, the Assistant Settlement Officer has no power to grant ryotwari patta to the petitioner and if at all any ryotwari patta could be granted, it could only be granted by the Government after properly scrutinizing all the materials placed by the ryot.

21.Therefore, from the above it is clear that only after satisfaction that the land has been classified as ryoti land and after satisfaction of the pre existing right, the Settlement Authorities could entertain the claim for issuance of ryotwari patta. In the absence of any satisfaction, the order of the Assistant Settlement Officer, Chengalpattu, dated 31.03.1975 granting ryotwari patta to the claimants under Section 11(a) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, is unsustainable.

22.Considering all the factors above, the respondents have rightly rejected the claim of the petitioners for issuance of patta, which does not call for any interference. Accordingly, this writ petition fails and the same is dismissed. No costs.



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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

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