



WA.No.1537/2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.11.2022

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS. JUSTICE N.MALA

WA.No.1537/2019 & CMP.No.10560/2019

1.The District Collector,
Krishnagiri, Krishnagiri District.

2.The District Revenue Officer
Krishnagiri, Krishnagiri District.

3.The Sub Collector
Hosur, Krishnagiri District.

4.The Tahsildar
Hosur, Krishnagiri District.

.. Appellants / RR
1 to 4

Versus

1.C.Dayananda
2.P.Ponnusamy
3.G.Ravichandran
Tahsildar, Hosur Taluk
Krishnagiri District.

.. Respondents



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****R3 suo motu impeaded vide order
dated 15.11.2022 in WA.No.1537/2011**

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 06.07.2017 made in WP.No.4715/2015.

For Appellants : Mrs.M.Geetha Thamaraiselvan
Special Government Pleader

For R1 : Mr.R.Bharath Kumar

JUDGMENT

[Judgment of the Court was delivered by S.S.SUNDAR, J.,]

- (1)This writ appeal is filed by the respondents in WP.No.4715/2015 challenging the order of the learned Single Judge dated 06.07.2017, allowing the writ petition by directing issuance of patta to the writ petitioner/1st respondent herein.
- (2)Brief facts which are necessary for the disposal of this writ appeal as seen from the materials produced before this Court are as follows:-



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(a) An extent of 6.62 acres in S.No.33/1 in Addakuruki Village in Hosur Taluk, Krishnagiri District owned by Thiru.N.S.Krishnamurthy and L.Srikandaiya. The original owners are also the Inamdars and appears to have enjoyed both warams, but sold their possessory rights in the said lands in favour of Tvl.S.V.Venkataramaiah and Venkatasamy under two registered Sale Deeds dated 30.01.1959 and 25.03.1959 respectively. It is pertinent to mention that the Sale Deeds were attested by one K.S.Ramachandraiah and Venkataramaiah who were the then Village Musnif and Karnam of the Village, was taken over by the Government under Act 26 of 1963, namely the Tamil Nadu Inam Estates [Abolition and Conversion into Ryotwari] Act, 1963. Since land was purchased from Inamdars after 01.07.1950 and came into their possession of the purchasers, the claim of the purchasers was held to be one required to be considered under Section 10[1] of the Act 26 of 1963 by the Settlement Officer vide proceedings dated 07.01.1970. However, there was no rival claim to the said lands for ryotwari patta. Thereafter, the Settlement Officer after holding



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enquiry, issued patta in favour of Tvl.S.V.Venkataramaiah and Venkatasamy in respect of an extent of 6.62 acres [2.68.0 Hec] in S.NO.33/1. However, an individual by name Mr.Ramachandra who was the then Triune Officer, fraudulently got patta in his name in respect of an extent of 1.34.0 Hectares in S.No.33/3. It is seen from records that patta was issued in the name of one Ramachandra in respect of an extent of 1.34.0 Hectares in S.No.33/3 by reducing the extent of S.No.33/1 indicating as if there was sub-division of S.No.33/1 as S.No.33/1 and S.No.33/3.

(b) Tvl.S.V.Venkataramaiah and Venkatasamy challenged the order of the Settlement Officer dated 27.08.1971 before the Inam Abolition Tribunal at Krishnagiri [Sub Court, Krishnagiri] in CMA.No.4/1977. The Tribunal after holding enquiry, found that grant of patta in favour of the said Ramachandra who is also known as K.S.Ramachandraiah is wrong. It is pertinent to mention that the legal heirs of the said Ramachandraiah were respondents in CMA.No.4/1977. It appears that the said K.S.Ramachandraiah sold the property in favour of one Kannaiah and Ponnusamy by a Sale



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Deed dated 05.02.1973 and the purchasers were also made as respondents in CMA.No.4/1977.

- (c) CMA.No.4/1977 was allowed on 12.12.1977 and the order of the Settlement Tahsildar dated 27.08.1971 was set aside regarding grant of patta in favour of K.S.Ramachandraiah in respect of an extent of 1.34.0 Hectares in S.No.33/3. The Tribunal noticed that the said K.S.Ramchandraiah did not produce any Sale Deed or document to claim any right in respect of property in RS.No.33/3. The Tribunal also noticed that the appellants therein were given patta in respect of an extent of 2.68.0 Hectares in RS.No.33/1. Though a specific reference was made that Mr.K.S.Ramachandraiah, the Triune Officer was not alive at the time when the appeal was decided by the Tribunal and it was observed that the said Triune Officer had played fraud upon the Settlement Officer to get patta in his name without bringing it to the notice of the Settlement Tahsildar about the earlier orders of the Settlement Officer, the matter was remitted back for fresh disposal after giving opportunity to the appellants therein to let in evidence for getting patta for the said lands.



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(d) From the sequence of events, this Court is inclined to record that the subject matter of the appeal before the Tribunal was only in respect of patta that was illegally granted in favour of one K.S.Ramachandraiah who played fraud to get patta in his name.

(e) After remand, the Assistant Settlement Officer by proceedings dated 15.06.1981, passed the following order:-

"I have carefully considered the evidence placed in this case. The then Settlement Tahsildar IV Salem has held that S.No.33/1 measuring 6.62 acres belongs to Venkatasamy and another Venkataramaiah in Sr.No.199/69/Act 26/63 Addakuruki Village/Hosur Taluk dated 07.01.1970. Subsequently, the Settlement Officer, Salem, by his order dated 23.09.1971 in Sr.No.692 to 701, 703, 704, 706 to 708/71/10[1] pro/Addakuruki Village / Hosur Taluk, Dharmapuri District ordered patta in respect of S.No.33/1 pro measuring 1.34.0 Hectares only. PW1 has produced Ex.P3 the authenticated copy of the Settlement Officer's order served on him where under the extent as given in 2.68.0 hectares. It is not known under what circumstances such correction was made. But subsequently S.No.33/1



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was sub divided as 33/1 and 33/3. The Settlement Tahsildar, Salem, by his order dated 27.08.1971 in SR.No.6/Act/26/63 Addakuruki Hosur Taluk allowed ryotwari patta in the name of Ramachandra Rao under Section 9[1] for S.No.9[1] for S.No.33/3 pro. The suit land was admitted into possession after 1.7.50 and it falls under the proviso to Sec.10[1] of Act 26/63. Separate action will have to be taken in respect of S.No.33/3 for the issue of ryotwari patta and orders will be passed by the appropriate authority.

Pending final orders in this case, I order that S.No.33/3 shall vest in the Government and be registered as Assessed Waste Dry. The patta already issued in favour of Ramachandra Rao S/o.Krishnamurthy stands cancelled."

- (f) Since the Assistant Settlement Officer directed the land to be registered as 'assessed waste dry' till final orders are passed in the claim of appellants for ryotwari patta in respect of S.No.33/3, Tvl.S.V.Venkataramaiah and Venkatasamy filed an appeal before the Inam Abolition Tribunal, Krishnagiri [Sub Court, Krishnagiri] in



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CMA.No.4/1981. Interestingly, the purchasers from the legal heirs of Mr.K.S.Ramachandraiah, the then Triune Office, also preferred an appeal in CMA.No.8/1982 challenging the same order of the Assistant Settlement Officer, vide proceedings in SR.6/71/ACT 26/63 Addakuruki/Hosur Taluk dated 15.06.1981. It is to be noted that the legal heirs and the purchasers though are parties to the previous order of the Tribunal dated 12.12.1977 in CMA.No.4/1977, they have not challenged the said order and the appeal filed by Tvl.S.V.Venkataramaiah and Venkatasamy in CMA.No.4/1981 was allowed by the Tribunal by order dated 16.08.1983 and the appeal filed by the rival claimants, namely the purchasers of the property from the legal heirs of Mr.K.S.Ramachandraiah was dismissed by the same order. The Inam Abolition Tribunal specifically held that the issue of patta in respect of an extent of 1.34.0 Hectares in S.No.33/3 in favour of the predecessors in interest of the appellants in CmaNo.3/1982 was by playing fraud.

(g) From the order, it is also to be noted that the Tribunal rejected the



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arguments of the learned Special Government Pleader appearing for appellants that the Government alone is the proper authority for grant of patta in respect of lands purchased by the appellants in CMA.No.4/1981 and observed that the appellants in CMA.No.4/1981 alone are having title and possession in respect of the extent of 3.31 acres in S.No.33/1 and the extent of 3.31 acres in S.No.33/3. Though the operative portion of the order does not speak about any direction for grant of ryotwari patta in favour of appellants in CMA.No.4/1981 in respect of S.No.33/3, the appeal in CMA.No.4/1981 which is in respect of S.No.33/3 [33.1 Acres] was allowed.. Aggrieved by the order of the Tribunal dated 16.08.1983, Tvl.Kannaiah and Ponnusamy who claimed to have purchased properties to an extent of 3.31 acres in S.No.33/3 from the legal heirs of K.S.Ramachandraiah filed an appeal before this Court in STA.Nos.12 and 13/1984,

(h) In the meanwhile, Tvl.S.V.Venkataramaiah and Venkatasamy filed a suit in OS.No.541/1974 on the file of the Principal District Munsif, Hosur, for declaration of their title and for permanent



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injunction as against Tvl.Kannaiah and Ponnusamy. The said Tvl.Kannaiah and Ponnusamy filed a suit in OS.No.589/1974 again for declaration of their title to the suit property and for permanent injunction against Tvl.S.V.Venkataramaiah and Venkatasamy and two others.

- (i) The Trial Court after elaborately considering every documents, vide common judgment and decree dated 28.02.1978, held that the predecessor in interest of Tvl.Ponnusamy and Kannaiah, had no right over the property and that Tvl.S.V.Venkataramaiah and Venkatasamy are the absolute owners of the property. It was specifically observed that the defendants in OS.No.541/1974, namely, Tvl.Kannaiah and Ponnusamy, did not produce any documents to sustain their claim of title and that the order of Settlement Tahsildar granting patta to their vendor had already been set aside. Therefore, the suit filed by Tvl.S.V.Venkataramaiah and Venkatasamy in OS.No.541/1974 was decreed and the suit filed by Tvl.Ponnusamy and Kannaiah in OS.No.589/1974 was dismissed on 28.02.1978.



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(j) The judgment of decree in OS.Nos.541/1974 and 589/1974 were challenged before the District Court, Dharmapuri at Krishnagiri in AS.No.68/1978 and AS.No.164/1978. Both the appeals filed by Tvl.Kannaiah and Ponnusamy were dismissed vide judgment and decree dated 27.06.1979. Thereafter, the unsuccessful claimants filed the Second Appeal before this Court in SA.No.2135/1979 and SA.No.201/1987.

(k) SA.No.2135/1979 and SA.No.201/1987 were heard along with STA.Nos.12 and 13/1984 and all the appeals were dismissed by the Division Bench of this Court vide judgment dated 13.06.1990. It is relevant to point out that the Division Bench of this Court, while referring to the order of the Inam Abolition Tribunal [Sub Court, Krishnagiri] dated 16.08.1983, has observed that respondents 1 and 2, namely, Tvl.S.V.Venkataramaiah and Venkatasamy have substantiated their claim for patta and therefore, the Tribunal was justified in allowing the appeal. A further observation was also made by the Division Bench of this Court that the Tribunal also rejected the case of the 3rd respondent in STA.Nos.12 and 13/1984



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to the effect that the suit property must be classified as 'assessed waste dry'. The 3rd respondent in STA.Nos.12 and 13/1984 is the District Collector, Dharmapuri. The judgment and decree in AS.Nos.68 and 164/1978 confirming the judgment and decree of the Trial Court in OS.Nos.541 and 589/1974 was also upheld by this Court by dismissing the Second Appeal. After the order passed by this Court in STA.Nos.12 and 13/1984, the Sub Collector, Hosur, cancelled the patta issued in favour of Ponnusamy in respect of an extent of 1.34.0 Hectares in S.No.33/3 in Addakuruki Village. Though a copy of the order was marked to the writ petitioner, this Court is unable to find whether any notice was issued to the writ petitioner before passing the said order. However, the writ petitioner who is the successor in interest of Tvl.S.V.Venkataramaiah and Venkatasamy on the basis of partition, submitted a representation to the Tahsildar for grant of patta in respect of the lands measuring an extent of 1.34.0 Hectares in S.No.33/3 which was then classified as 'anaadeenam'.

(I) Despite the Division Bench of this Court has observed that the



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purchasers in interest of the writ petitioner are entitled to ryotwari patta in respect of lands in S.No.33/3 by confirming the order of Inam Abolition Tribunal and held that the Tribunal has set aside the classification of the land as 'assessed waste', the Tahsildar by order dated 28.11.2014, rejected the writ petitioner's representation/application for patta only on the ground that S.No.33/3 is classified as 'anaadeenam' ignoring the Civil Court's decree as well as the final order passed by this Court confirming the order of Inam Tribunal upholding the claim of writ petitioner's predecessors in interest. Challenging the same, the writ petitioner filed the present writ petition in WP.No.4715/2015 and the learned Single Judge has set aside the order of the 4th respondent impugned in the writ petition and directed granting of patta in favour of writ petitioner within a period of six weeks.

(m)It was pursuant to the order passed by this Court, it is seen from the typed set of documents filed by the writ petitioner that the Tahsildar has recommended/forwarded the representation of the writ



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petitioner to the District Revenue Officer specifically holding that the classification of land as 'anaadeenam' was done during UDR by mistake and indicating that the classification of land as assessed waste dry was on temporary basis till the claim of the writ petitioner for ryotwari patta is considered under Tamil Nadu Act 26 of 1963. By virtue of the order passed by this Court as Special Appellate Tribunal, the writ petitioner is entitled to patta for the land in S.No.33/3. The position was again reiterated by the Sub Collector by proceedings dated 15.03.2019.

(n) Quite contrary to the facts admitted by the respondents all along, the above appeal is preferred by the appellants.

(3) The dispute is only in respect of an extent of 1.34.0 Hectares (3.31 Acres) in S.No.33/3 in Addakuruki Village. The fact that the said land also form part of two Sale Deeds obtained by the predecessors in interest of the writ petitioner was never questioned. Similarly, the right, title and interest of the predecessors in interest of the writ petitioner was accepted by the Settlement Officer at the first instance. However the village Munsif appears to have obtained patta in respect of an extent of



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1.34.0 Hectares in S.NO.33/3 without any supporting document to establish his rival claim at any point of time prior to settlement. This fact was also noticed by the Assistant Settlement Officer and the Settlement Tahsildar in every proceedings and patta in favour of the vendor of the 2nd respondent in this writ appeal was cancelled and the same was also upheld by the Inam Abolition Tribunal in the order in CMA.Nos.4/1977 dated 12.12.1977 and subsequently in C.M.A.No.4 of 1981. In addition to the findings rendered by the settlement authorities rejecting the claim of one Ramachandraiah, the Civil Court also upheld title and possession of the writ petitioner's predecessors in interest. Though the appellants are not parties before the Civil Court, the Second Appeal was ultimately decided by the Division Bench of this Court along with STA.Nos.12 and 13/1984. The specific findings of the Special Appellate Tribunal is binding on the appellants as the 1st appellant also is a party to the proceedings before the Special Appellate Tribunal in STA.Nos.12 and 13/1984.

(4) In the course of proceedings, the Special Appellate Tribunal constituted under Section 8 of the Act, has specifically held in its authority that the



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writ petitioner's predecessors in interest had not only established their title but also their possession. Though the final order passed by the Tribunal in CMA.No.4/1981 is seen with a few mistakes due to inadvertence, the order allowing appeal cannot be understood to deprive the right of petitioners in the writ. The order passed by the Division Bench of this court as Special Appellate Tribunal shall be final by virtue of Section 46 of T.N. Act 26 of 1963.

(5) Sub-section [5] of Section 46 of the Act 26/1963 reads thus:-

46. Appeals:-

- 1)....
- 2)....
- 3)....
- 4)....

5) Every decision of the Special Appellate Tribunal and subject to such decision, every decision of the Tribunal shall be binding on all persons claiming an interest in any inam estate notwithstanding that any such person has not preferred any application or filed any statement or adduced any evidence or appeared or participated in any proceeding before the Tribunal or the Special Appellate Tribunal, as the case may be."

(6) Therefore, as against the appellants the decision of the Special

Appellate Tribunal in STA.Nos.12 and 13/1984 has become final. From



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the sequence of events and the order passed by the authorities at every stage of the proceedings before the Settlement Officer, this Court is able to see that the issue regarding title and possession has been consistently upheld in favour of the writ petitioner's predecessors in interest. However, their claim for ryotwari patta was directed to be considered under Section 10 of the Act. It is only for the purpose of considering the claim for granting ryotwari patta under Section 10 of the Act, by Government the Settlement Officer during enquiry, directed classification of land as 'assessed waste'. However, the land which is in continuous enjoyment of a ryot cannot be classified as 'anaadeenam' and the classification of land as 'anaadeenam' is unwarranted and mischievous.

(7) When a land is assessed to land Revenue and the person entitled to ryotwari patta under the Act is not determined either on account of rival claim or on account of other reasons, the revenue may keep the land as assessed waste for the purpose of record as patta cannot be given till such time a final decision is taken as regards the claim for ryotwari patta by the Settlement authorities or declaring one's title by the Civil Court.



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It has been repeatedly held that the Act does not take away the rights of ryots who are entitled to get ryotwari patta. In other words, the lands vest with Government under Act 26/1963 subject to the rights of ryots to get ryotwari patta. In the present case, the writ petitioner's predecessors in interest have purchased the lands after 01.07.1950 and only for the said reason, it was suggested by the Settlement Officer earlier that the writ petitioner's case should be examined under Section 10 of the Act 26 of 1963 by the Government. The fact that the lands are cultivable lands is not in dispute. A ryot is entitled to ryotwari patta under Section 10 of the Act. From the Sale Deeds it is seen that the writ petitioner's predecessors in interest have purchased lands which were under the enjoyment of Inamdars. No decision is taken against the predecessors in interest on their claim for ryotwari patta. The entitlement of the writ petitioner's predecessors in interest to get ryotwari patta is not disputed and the matter was kept pending for no valid reason. The writ petitioner's predecessors in interest need not be considered as a transferee in interest of a landholder. The stand of appellants that the Government alone is competent to consider the claim



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of writ petitioner's predecessors in interest was rejected by Tribunal in CMA.No.4/1981 and the order of Tribunal was confirmed by Special Appellate Tribunal. The writ petitioner's predecessors in interest have acquired the lands from the Inamdars who appeared to be in possession of the land doing personal cultivation.

(8)Therefore, this Court finds no reason as to why the ryotwari patta was not granted to the writ petitioner's predecessors in interest all these years despite the findings of the Inam Tribunal on 16.08.1983. In any event, after the order of the Special Appellate Tribunal in STA.Nos,12 and 13/1984 and SA.Nos.2135/1979 and 201/1987, this Court is unable to entertain this writ appeal on the ground that the 1st respondent / writ petitioner is not entitled to patta for the land which was classified as 'anaadeenam'. After the order passed by the Special Appellate Tribunal, the classification of the land as "anaadeenam" is mischievous and the revenue officials have ignored the order of this Court with an oblique motive probably with an intention to help the 2nd respondent who has purchased the land from the legal heirs of a Village Munsif who played fraud by getting his name entered in the revenue records as pattadhar



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with the connivance of the revenue officials. The District Collector and the District Revenue Officer failed to apply their mind with regard to either records or the orders of this Court confirming the order passed by the Inam Abolition Tribunal in CMA.No.4/1981. From the sequence of events it is seen that a wrong order was passed by Settlement Officer in the year 1971 granting ryotwari patta under Section 9 of the Act 26 of 1963 in favour of then Village Munsif who had no semblance of title or possession at any point of time. Later, revenue patta had been issued to the 2nd respondent despite civil Court declaring the title of writ petitioner's predecessors in interest. The conduct of appellant all along without looking into documents and the finality reached in civil suits and the order of Special Appellate Tribunal shows their mala fides.

(9) Though this Court was inclined to impose heavy cost on the appellants, having regard to the position that the appellants might have been influenced by the frivolous claim of third parties, this Court is not awarding any cost against the appellants, particularly, at the request of Mrs.M.Geetha Thamaraiselvan, learned Special Government Pleader



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who made all efforts to save the faces of the officials who according to her, was misled by some unscrupulous subordinates and the glaring errors in the proceedings not only of the Settlement Officers but also by the Tribunal.

(10)For the foregoing reasons, the writ appeal stands **dismissed** and the order dated 06.07.2017 made in WP.No.4715/2015 is hereby confirmed. The appellants are directed to issue patta in favour of the writ petitioner in respect of the lands in S.No.33/3 an extent of 3.31 acres in Addakuruki Village in Hosur Taluk, forthwith. No costs.

[SSSRJ] [NMJ]
28.11.2022

AP

Internet : Yes

Note:Issue order copy on 23.12.2022

To

1.The District Collector,
Krishnagiri, Krishnagiri District.

2.The District Revenue Officer
Krishnagiri, Krishnagiri District.

3.The Sub Collector
Hosur, Krishnagiri District.

4.The Tahsildar



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Hosur, Krishnagiri District.



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and
N.MALA, J.,

AP

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