



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P (MD).No.3189 of 2022
and
W.M.P (MD).No.2772 of 2022

A.Veluchamy

... Petitioner

Vs.

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Sankarankovil,
Tenkasi District.
- 3.The Deputy Commissioner/Executive Officer,
Arulmigu Sankaranarayanawamy,
Thirukovil,
Sankarankovil,
Tenkasi District.
- 4.The Revenue Divisional Officer,
Sankarankovil,
Tenkasi District.
- 5.The Tahsildar,
Sankarankovil,
Tenkasi District.

...Respondents

Prayer : Writ Petition 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 the impugned order issued by the third respondent in Na.Ka.No.1367/2021/A2 dated 30.11.2021 and quash the same and consequently direct the respondents 2 and 3 to remove the encumbrance made over the petitioner's property in respect of survey number 376 which is sub divided into survey number 376/2 and 376/3 and the survey number 381 which are sub divided into 381/1, 381/2, 381/3, 381/4, 381/5, 381/6, 381/7, 381/8, 381/9 and 381/10, 381/13, 381/14, 381/15, 381/16, 381/17 and 381/18.



For Petitioner : Mr.A.R.Kannappan
For R1, R2, R4 & R5 : Mr.P.Subbaraj
Special Government Pleader
For R3 : Mr.M.Muthugeethayan

WEB COPY

ORDER

The petitioner challenged the impugned communication, dated 30.11.2021 bearing reference Na.Ka.No.1367/2021/A2. By the impugned communication, the third respondent temple has requested the Divisional Revenue Officer to take steps to cancel the patta in respect of the villagers' agricultural lands in Seevarayendhal.

2. It is the case of the petitioner that the petitioner is the owner of the lands in the aforesaid village and had purchased the property from 1997 to 2017. The petitioner and his family depend on the agricultural income from the said property. It is further submitted that the petitioner is a bonafide purchaser of the property and that ryotwari patta was issued to the petitioner's vendor on 19.04.1967 in terms of the order in G.O.Ms.No.796 of 1967. Since the ryotwari patta was issued to the persons holding the possession of the property and therefore they were entitled to sell the same and therefore and thus the petitioner has a perfect title over the property, which have been purchased by the petitioner. It is therefore submitted that the purported exercise in the appeal filed by the third respondent temple before the Divisional Revenue Officer to cancel the patta issued to the petitioner and the members of the villagers cannot be allowed.

3. The learned counsel for the petitioner submits that the G.O.MS.No.796 of 1967 makes it clear that there was indeed a proceeding in terms of Inam Tamil Nadu Minor Inams (abolition and conversion into ryotwari) Act, 1963 [Tamil Nadu Act 30 of 1963].

4. Opposing the prayer, the learned counsel for the respondents submits that the steps have been taken by the third respondent to cancel the patta in terms of the order of this Court in **In Re The Director, Archaeological Survey of India, New Delhi, [in Suo Motu W.P.No.574 of 2015 & W.P.(MD).No.24178 of 2018, decided on 07.06.2021]**. A specific reference to paragraph 35 from the said order reads as read:

"35. The encroachment and illegal constructions in the protected area, archaeological sites, temple lands, etc., must immediately be removed. The extent of lands owned by the temples must be identified with the help of the revenue department by the Direct Level Committee. The District Collector of the appropriate District, on the request of the Heritage Commission or State Committee or District Level Committees or by any officer of the HR&CE Department, shall forthwith take steps for the removal of any such illegal



construction or encroachment or unauthorised occupants.

Appropriate action must be taken against the errant Government Officials of the central as well as state department and officers under the HR&CE department for not removing the encroachments in the protected and regulated area, within a period of eight (8) weeks on expiry of the time given."

The learned counsel for the respondents therefore submits that the present writ petition is devoid of merits and liable to be dismissed.

5. By way of rejoinder, the learned counsel for the petitioner has drawn attention to the decision of the Division Bench of this Court in **A.Radhakrishnan Vs Commissioner of Survey and Settlements and others**, reported in **2020 (1) CWC 80**, dated 23.10.2019. A specific reference was made to paragraph 36 (2), which reads as under:

"36.The judgments cited above are squarely applicable to the facts in case on hand and by applying the decisions cited supra and also in view of the stand taken by the temple and the District Collector, Karur, this Court passes the following order:

2.Insofar as the third category is concerned, wherein settlement pattas were given in the name of the individuals, the temple has to work out its remedies by filing a suit within a period of three months from the date of receipt of the copy of the order and the same has to be disposed of by the concerned Court within a period of one year thereof. The fourth respondent as well as the Commissioner, Archives and Historical Research Department shall provide all relevant records of the lands in issue to the HR & CE Department within two months from the date of receipt of copy of this order enabling them to initiate a suit as directed."

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

7. The claim of the petitioner as to whether the petitioner's vendors were indeed issued with ryotwari patta as earlier as 19.04.1967 under the provisions of the aforesaid Act cannot be decided in this proceeding.

8. The respondents on the other hand has placed reliance on the decision of the Division Bench of this Court in **A.Radhakrishnan's case** (referred to supra) as cited by the learned counsel for the petitioner. A specific reference from the aforesaid order reads as under:

"36.The judgments cited above are squarely applicable to the facts in case on hand and by applying the decisions cited



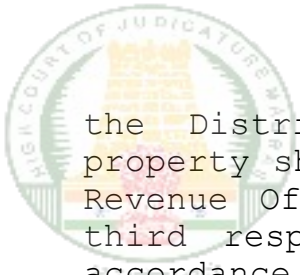
supra and also in view of the stand taken by the temple and the District Collector, Karur, this Court passes the following order:

3. Insofar as the fourth category is concerned the revenue records have been altered to the name of the individuals during UDR, and it is now reported that the DRO, after due enquiry, has passed orders restoring pattas to the temple and therefore, the temple authorities have to initiate proceedings under Section 78 of HR & CE Act and take further action. If the parties are aggrieved, it is for them to challenge the same, in the manner known to law, by approaching appropriate forum and in any event, if any appeal is filed, the same shall be decided within a period of six months thereof.

4. Insofar as the fifth category is concerned, the revenue records have been altered into the name of the individuals after UDR and now it is reported that the RDO has conducted an enquiry and restored the pattas in the name of the temple and therefore, the temple is at liberty to restore their properties by initiating proceedings under Section 78 of HR & CE Act and take further action. If anybody is aggrieved by the order of the RDO, it is open to them to challenge the same before the competent authority, and if any such appeal is filed, the same shall be disposed by the concerned forum on merits within a period of six months from thereof."

9. There are several disputed questions of fact as to whether petitioner's vendors were indeed issued with ryotwari patta or not. This issue will have to necessarily adjudicated and decided elsewhere and not in the limited jurisdiction of this Court under Article 226 of the Constitution of India. Be that as it may, it is noticed that the third respondent temple have taken steps for cancelling the patta before the District Revenue Officer. Whether the petitioner and other villagers have impleaded in the said proceedings are not decided from the records available from the Court. The record also indicates that the lands in respect of the petitioner has registered sale deed from his vendor falls within the said village.

10. Considering the above, I am inclined to dispose this writ petition by directing the third respondent temple to implead the petitioner and other villagers, who are likely to be affected by the steps being taken for cancelling the patta in terms of the decision of the Division Bench of this Court in **In Re The Director, Archaeological Survey of India, New Delhi, [in Suo Motu W.P.No.574 of 2015 & W.P.(MD).No.24178 of 2018, decided on 07.06.2021]**. In the aforesaid proceedings, the petitioner and the other villagers, whose interest have been addressed by the petitioner in his representation shall be decided. Pending disposal of the above proceedings before



the District Revenue Officer, Tenkasi, the possession of the property shall not be disturbed. It is made clear that the District Revenue Officer, Tenkasi shall entertain the appeal filed by the third respondent temple and dispose the same on merits and in accordance with law within a period of six months from the date of receipt of copy of this order. It is needless to state that before passing any such order, all the concerned persons shall be heard who are likely to be affected by such proceedings.

11. The writ petition stand disposed of with the above observations. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sn

To

- 1.The District Collector,
Tenkasi District,Tenkasi.
- 2.The Joint Commissioner,
Hindu Religious and Charitable Endowments,
Sankarankovil,Tenkasi District.
- 3.The Deputy Commissioner/Executive Officer,
Arulmigu Sankaranarayanawamy,
Thirukovil,Sankarankovil,
Tenkasi District.
- 4.The Revenue Divisional Officer,
Sankarankovil,Tenkasi District.
- 5.The Tahsildar,Sankarankovil,
Tenkasi District.

+1 CC to M/s.M. MUTHUGEETHAYAN, Advocate (SR-20183[F] dated 21/04/2022)
+1 CC to M/s.SPL.GP. (SR-20743[F] dated 22/04/2022)
+1 CC to M/s.A.R.KANNAPPAN, Advocate (SR-20860[F] dated 25/04/2022)

W.P (MD) .No.3189 of 2022
21.04.2022

ks (CO)

TR(09.05.2022) 5P 9C

<https://hcservices.ecourts.gov.in/hcservices/>