BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 24.11.2022

ORDER PRONOUNCED ON : 29.11.2022
CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.16707 of 2014
and
M.P(MD).Nos.1 & 2 of 2014

Ramanathapuram Samasthanam Devasthanam
Through its Diwan and Administrative Secretary
Ramanathapuram
V.Mahendran ....Petitioner

Vs

1.The District Revenue Officer
Sivagangai District
Sivagangai

2.The Tahsildar
Sivagangai Taluk
Sivagangai District

3.K.Jegannathan Ambalam ...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records in Na.Ka.B1-28587-2010 dated 04.07.2014 on the file of the first respondent and quash the same as illegal, ultravires and unconstitutional and for other consequential reliefs.

For Petitioner	: Mr.S.Ramesh
For R1 & R2	: Mr.A.Baskaran Additional Government Pleader
For R3	: Mr.S.Veeranasamy

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein under which he has proceeded to grant patta in favour of the writ petitioner.

2.According to the learned counsel for the petitioner, Survey No. 148/1A, 1B and 1C having an extent of 1.16 acres and Survey No.148/5 having an extent of 1.44 acres belong to Vedapurieaswarar Swamy Temple under the administration of Ramanathapuram Samasthanam Devasthanam. Even before the settlement proceedings, the revenue records were standing in the name of the temple. During the settlement proceedings, patta was granted by the Settlement Tahsildhar on 10.06.1969 in favour of the temple represented by its trustee namely Raja of Ramnad.

3.For the above said Survey numbers along with other survey numbers, an appeal was filed by one Chellam before the Assistant Settlement Officer, Chennai. By an order dated 26.02.2003, patta granted in favour of the temple for the above said survey number was confirmed by the Assessment Settlement Officer. Thereafter, there was no further appeal and the said order has become final.

4.The learned counsel had further submitted that based upon the patta granted, a revenue patta was also granted in favour of the temple. The third respondent herein had given a representation on 08.03.2010 to the District Revenue Officer, Sivagangai, seeking patta for the above said survey numbers. Since the said representation was not considered, the third respondent had filed W.P.No.3403 of 2010 for a mandamus to consider his representation. The said writ petition was allowed on 07.12.2012 directing the District Collector and Tahisldhar, Devakottai to consider the representation on merits and in accordance with law. Thereafter, a notice was issued by the first respondent herein to the petitioner for conducting enquiry. The first respondent herein after going through the submissions on either side had proceeded to hold that during UDR proceedings erroneously patta has been granted in favour of the Vedapurieaswarar Swamy Temple and had proceeded to pass an order granting patta in favour of the third respondent herein cancelling the patta in favour of the temple. This order is under challenge in the present writ petition.

5.The learned counsel for the petitioner had further submitted that patta has been granted in favour of the temple during the settlement proceedings and the said order has also been confirmed in appeal by the Assistant Settlement Officer. The revenue officials will not have any jurisdiction whatsoever to entertain any request either challenging the settlement patta order to grant revenue patta which is contrary to the settlement proceedings.

6.The learned counsel had further contended that the Village in dispute was taken over by the Government under Tamil Nadu Act 26 of 1963. As per Sections 70 and 71 of the said Act, limitation has been specified to challenge the order passed by the authorities under the Act and the orders passed under the Act attained finality. In the present case, the third respondent has not chosen to seek for patta during the settlement proceedings or challenged the patta granted during the settlement proceedings. Hence, the first respondent herein does not have any jurisdiction whatsoever to interfere in the settlement patta which was granted in favour of the temple and grant patta in favour of the third respondent. Hence, he prayed for allowing the writ petition.

7.Per contra, the learned counsel for the third respondent had contended that he had purchased the above said survey numbers from one Duraisingam and his legal heirs on 02.08.1963 and they are in possession and enjoyments of the said property. The learned counsel for the third respondent had further contended that they are running a rice mill from the year 1964-1965 onwards after obtaining license from the first respondent herein. They are also having electricity connection for the said premises. The third respondent has also donated 30 cents of land to Co-operative Thrift Society. Hence, the balance extent of 1.95 acres including the rice mill is in possession of the third respondent herein. Only during UDR proceedings, erroneously patta has been entered into in the name of Sri Vedapurieaswarar Temple. Therefore, according to the learned counsel for the third respondent, the error during the UDR proceedings could be rectified only by DRO and hence, the impugned order passed by the first respondent herein has to be sustained.

8.I have considered the submissions made on either side and perused the materials available on record.

9.The survey numbers in dispute namely 148/1 and 148/5 in Pidaranenthal Village has been taken over by the Government under Tamil Nadu Act 26 of 1963. The third respondent claims to have purchased the property from one Duraisingam on 02.08.1963. However, the third respondent has not chosen to approach the authorities under Tamil Nadu Act 26 of 1963 for grant of patta. Only Vedapurieaswarar Swamy Temple represented by Raja of Ramnad had approached the authorities under Tamil Nadu Act 26 of 1963 and a settlement patta has been granted in favour of the temple by an order dated 10.06.1969. Some third party by name B.Chellam had challenged the patta in favour of the temple before the Assistant Settlement Officer, Chennai. The settlement patta in favour of the temple has been confirmed in appeal by an order dated 26.02.2003. Hence, it is clear that the said Village has been taken over by the Government under Tamil Act 26 of 1963 and it has been subjected to settlement proceedings.

10.As rightly contended by the learned counsel for the petitioner, the third respondent has neither claimed patta for said survey numbers during the settlement proceedings nor challenged the patta granted in favour of the temple during the settlement proceedings. After a period of 40 years from grant of patta in favour of the temple, the third respondent has chosen to make a representation to the District Collector and Tahsildhar for grant of patta. However, the proceedings have been conducted by DRO, Sivagangai and the impunged order has been passed.

11.A perusal of the impugned order indicates that despite notice, the petitioner has not chosen to appear and they did not file any counter affidavit. Hence, the issue relating to the fact that the village was subjected to Inam Abolition Act was not brought to the notice of the first respondent herein. It is not the case of the third respondent that the Village was not taken over by Tamil Nadu Act 26 of 1963. Once the third respondent admits that the village in dispute was taken over under the Inam Abolition Act, the first respondent herein will have no jurisdiction whatsoever to consider the representation of the third respondent and cancel the patta.

12.During the settlement proceedings in the year 1969, patta has been granted in favour of the petitioner temple and the same has been cancelled now by the District Revenue Officer by an impugned order dated 04.07.2014.

This Court has no hesitation to come to a conclusion that the impugned order of the first respondent is without jurisdiction and the same is liable to be set aside.

13.In view of the above said facts, the order impugned in the writ petition is set aside and the writ petition is allowed. The respondents 1 and 2 are directed to restore the patta in favour of Sri Vedapurieaswarar Swamy Temple, Pidaranenthal, Devakottai Taluk, Sivagangai District represented by Ramanathapuram Samasthanam Devasthanam. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

29.11.2022

Internet : Yes/No
Index : Yes/No
msa

To

1.The District Revenue Officer
Sivagangai District
Sivagangai

2.The Tahsildar
Sivagangai Taluk
Sivagangai District

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.16707 of 2014
and
M.P(MD).Nos.1 & 2 of 2014

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