



W.A.No.534 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

W.A.No.534 of 2018 and

CMP No.5093 of 2018

1. The Tahsildar, Hosur, Krishnagir.

2. The District Collector, Krishnagiri 635 001. ... Appellants

Vs.

C.K.Ramasamy ... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by this Court in W.P.No.1701/2012 dated 08.03.2012.

For Appellants : Mr.J.Ravindran, Additional Adv.General
Assisted by Mr.Edwin Prabakar,
Special Government Pleader and
Mr.Vadivelu Deenadayalan,
Addl.Govt. Pleader

For Respondent : Mr.V.Raghavachari, Senior Counsel
for Mrs.V.Srimathi



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JUDGEMENT

WEB COPY (Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

This Intra Court Appeal has been filed by the Government as against the order passed by this Court in W.P.No.1701/2012 dated 08.03.2012, wherein, the first appellant herein was directed as "*to consider the case of the writ petitioner and arrange to issue patta in respect of the property in Survey No.235/3 in Chichuraganapalli Village, Krishnagiri District, in the light of the decree and order dated 24.02.2011 of the Assistant Settlement Officer, within a period of two months from the date of receipt of the copy of the order*".

2. The brief facts leading to the filing of writ appeal is as follows.

The respondent/writ petitioner herein has filed the above said writ petition seeking to issue patta to him, in respect of the property situate at S.No.235/3, Chichuraganapalli Village, Krishnagiri District. According to the respondent/writ petitioner, the above said property was allotted to his father Krishnamachi through a partition deed dated 22.07.1952 and it was assessed to tax and after his father's life time, he succeeded the property.



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2.1. At the time of settlement in the year 1971, notice was served to the father of the respondent/writ petitioner for granting Ryotwari Patta of the land and he had appeared for enquiry. However, the settlement Tahsildar, vide order dated 04.04.1971, had refused to grant patta, stating that the land in question belonged to Inamdar as his private. Therefore, to cancel the above order dated 04.04.1971 and also to issue Ryotwari patta in his name, the respondent/ writ petitioner had filed O.S.No.24/2009 before the Principal District Judge, Krishnagiri and the same was decreed in his favour, vide decree and judgment dated 09.06.2010. Pursuant to the decree, the respondent/ writ petitioner had approached the authorities concerned to issue patta. Since there was no response from the official concerned, the respondent/writ petitioner had filed the above writ petition and it was allowed. Challenging the same, this writ appeal is before this court.

3. There are several grounds raised in the appeal that the land in question was considered as a private land of inamdar; the writ petitioner has not proved by documents that the land owner cultivated as private land; as against the order of the settlement Tahsildar, Salem, the remedy is only



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before the Tribunal, within three months under Section 12(2) of the Tamil Nadu Inam Estates (Abolition and conversion into Ryotwari) Act, 1963; only after effecting the sale of the property by the Government in the year 2008, the petitioner had filed the suit in O.S.No.24/2009; after expiry of 39 years, the decree passed by the Principal District Judge, Krishnagiri in favour of the respondent suffered on jurisdictional as well as limitation ground; etc.

4. The learned Additional Advocate General submitted that the order of the Writ Court is a positive order and hence, this writ appeal has been filed. He further submitted that, at the time of filing the suit in O.S.No.24/2009, the land in survey No.235/3 measuring to an extent of 5.10 acres was already sold one Ravindra Muni Reddy and Radamma, vide document No.2528/2008 dated 22.02.2008 and hence, legally, patta cannot be granted in favour of the respondent/writ petitioner.



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5. The learned Senior Counsel appearing for the respondent/writ petitioner submitted that the order of the Writ Court is not a positive order and it is only a direction to the concerned Tahsildar, in the light of the order passed by the Civil Court as well as the Assistant Settlement Officer. Therefore, there is no cause for filing the present appeal and hence, the order passed by the learned single Judge does not warrant any interference by this Court.

6. At this juncture, it is brought to the notice of this Court by the learned Senior Counsel appearing for the respondent/writ petitioner that pending writ appeal, patta was granted in favour of the respondent/writ petitioner.

7. Therefore, if the appellants are aggrieved by the order of patta granted in favour of the respondent/writ petitioner, liberty is granted to the appellants to proceed further, if the law permits them.



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8. With the above direction, this writ appeal is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

(D.K.K.J.)

(P.B.B.J.)

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Internet: Yes/No

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To

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