IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI
AND
THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

W.A.No.1489 of 2014
and M.P.No.1 of 2014

1.State of Tamil Nadu
Rep. by its Secretary
Revenue Department
Fort St. George
Chennai 600 009.

2.The Special Commissioner and
Commissioner of Land Administration
Chepauk, Chennai 600 005.

3.The District Revenue Officer
Kancheepuram District.

4.The Tahsildar
Chengalpattu
Kancheepuram District. .. Appellants

Vs.

1.Panchanatha Achari
2.Arulanandam
3.Sundaramani
4.A.Balasundaram

5.R.Ramesh
6.M.Basheer Ahamed
7.Sundaramanickam .. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 08.04.2014 made in W.P.No.4524 of 2006 on the file of this Court.

For Appellants : Mr.J.Ravindran, Additional Advocate General
assisted by Mr.A.Selvendran, Special Govt. Pleader

For R1 to R4 : Mr. R.Ponnusamy

For R5 and R6 : Mr.P.V.Selvarajan
for Mr.P.S.Venkata Subramanian

For R7 : Mr.R.Elanchezhian

J U D G M E N T

(Judgment of the Court delivered by V.M.VELUMANI, J.)

The present appeal is filed challenging the order dated 08.04.2014 passed by this Court in W.P.No.4524 of 2006.

2. The respondents 1 to 4 filed W.P.No.4524 of 2006 challenging the order of the 2nd appellant dated 21.10.2005, whereby patta granted to the 1st respondent was set aside.

Case of the respondents 1 to 4:

3.The 1st respondent is the owner of the lands in S.Nos.445 measuring 13.65 acres and 446/1 measuring 2.03 acres, situated at Paiyanur Village, Chengalpet, he having purchased the same from Ex.Sunampet Zamindar of the village during 1935. From that date onwards, the 1st respondent is in continuous possession and is in enjoyment of the said land by cultivating the same and paying Kist. While so, the lands were classified as Anaadhenam at the time of settlement by settlement authorities. The respondents sent a representation dated 21.03.1974 to the 3rd appellant for grant of patta in respect of lands in question. The Tahsildar, Chengalpet/4th appellant herein called for objections as per G.O.Ms.No.1300, Revenue Department dated 30.04.1971 and after several enquiries, recommended the then 3rd appellant/District Revenue Officer, Kancheepuram, to issue patta in favour of the 1st respondent herein. The 3rd appellant passed orders granting patta in the name of 1st respondent by the order dated 25.10.1997 after survey of the land in question measuring 15.68 acres. During 1998, the 1st respondent sold a portion of the said lands to the respondents 3 and 4, who subsequently sold the lands to respondents 5 to 7/appellants 5 to 7 herein, in the year 2005.

3(a). While so, the respondents 1, 2 and 4 received a show cause notice from the 2nd appellant stating that he has initiated *suo motu* proceedings to cancel the patta granted in favour of the 1st respondent by the 3rd appellant. The 2nd appellant informed them that patta is liable to be cancelled on the following grounds :

i. The 1st respondent Panchanatha Achari submitted an application for grant of patta outside the scope of the Act only on 03.09.1993, after a lapse of 15 years and after the time allowed for submission of such application expired on 30.06.1975;

ii. The SLR copy produced along with the application was issued by the Collectorate only on 19.05.1988 and the same would falsify the claim of the 1st respondent that he made application within the time i.e., on 21.03.1974;

iii. The 1st respondent in his application did not mention that his request for grant of patta was disallowed by the settlement authorities; and

iv. The 1st respondent admitted that he was a non-resident of Paiyanur village and not in the possession and enjoyment of the land in question since the notified date. As he was not in possession and enjoyment of the lands, he was not entitled to get patta outside the scope of the Act.

3(b). Challenging the said order of the 2nd appellant, the respondents 1 to 4 filed W.P.No.4524 of 2006. According to the respondents 1 to 4, the 2nd appellant fixed 10.10.2005 for enquiry. The 1st respondent and others appeared on that date for enquiry and sought time for production of documents. The 1st respondent also submitted his statement on 12.10.2005. The 2nd appellant without granting time as sought for by the respondents, passed the impugned order on 21.10.2005 setting aside the order of the 3rd appellant and cancelled the patta granted in favour of the 1st respondent.

3(c). It is further case of the respondents that *suo motu* proceedings initiated by the 2nd appellant is barred by limitation as the same had been initiated after eight years from the date of issue of patta and the 2nd appellant has no jurisdiction to initiate *suo motu* proceedings. The 1st respondent made his application on 21.03.1974 i.e., within the time specified in G.O.Ms.No.1300, Revenue Department dated 30.04.1971. The said application was forwarded by the 3rd appellant on 07.04.1974 to the 4th appellant for the report. The 4th appellant invited objections from the public and after enquiry, in his report recommended to the 3rd appellant for grant of patta to the 1st respondent. This will clearly show that the application of the 1st respondent is not barred by limitation and it was made before the cut off date as per G.O.Ms.No.1300, Revenue Department dated 30.04.1971. The 2nd appellant did not consider the document produced by the 1st respondent along with his application dated 21.03.1974 i.e., zamin patta upto 1951, kist receipts and SLR extract to prove his claim regarding continuous possession and enjoyment of the lands. The 2nd appellant committed an error in refusing to grant time to the respondents 1, 2 and 4 for producing relevant documents and hurriedly passed an order on 21.10.2005 in the *suo motu* proceedings. The grounds mentioned in the order of the 2nd appellant for setting aside the order of the 3rd appellant and the reason given for cancelling patta are different from the reason given in the show cause notice. The respondents 1, 2 and 4 were not given opportunity to put forth their case. The 2nd appellant erred in holding that the respondents 1, 2 and 4 colluded with the then District Revenue Officer and manipulated the records for obtaining patta.

Case of the appellants:

4. The 1st respondent applied patta after 15 years of the time granted in G.O.Ms.No.1300, Revenue Department dated 30.04.1971. The 2nd appellant initiated *suo motu* proceedings, which is not barred by limitation, in view of G.O.Ms.No.1147, Commercial Taxes and Religious Endowments Department dated 06.10.1983. As per the said Government Order, no time limit is fixed by the Government for the 2nd appellant to initiate *suo motu* proceedings. The 1st respondent made an application for issuance of patta only on 03.09.1993, which is beyond time limit fixed by the Government in G.O.Ms.No.1300, Revenue Department dated 30.04.1971, by which time limit was extended upto 30.06.1975 and subsequently, it was extended upto 31.05.1978. It is the further case of the appellants that the 1st respondent

was not in continuous possession. The District Revenue Officer Rajamani, who is a close relative of respondents 2 and 4, in collusion with respondents 1, 2 and 4, issued patta to the 1st respondent. Subsequently, the 1st respondent sold a portion of the land to the respondents 2 and 4.

5. The learned Judge considering the rival submissions, materials available on record and the file produced by the appellants, allowed the writ petition quashing the order of the 2nd appellant dated 21.10.2005.

6. Aggrieved by the said order dated 08.04.2014 made in W.P.No.4524 of 2006, the present appeal has been filed.

7. The learned Additional Advocate General appearing for the appellants submitted that after ryotwari settlement under Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948 (Act XXVI of 1948) was completed in Paiyanur Village, Kancheepuram District, in the year 1959, the lands in S.Nos.445 and 446/1 measuring 15.68 acres was settled as "Government Anadheenam". The 1st respondent did not stake any claim

during the currency of settlement for the said lands and after a lapse of 40 years only, he made an application and the District Revenue Officer, Kancheepuram, by proceedings dated 25.10.1997 granted patta as per G.O.Ms.No.1300, Revenue Department dated 30.04.1971. The parties in possession of the land who failed to make an application before the settlement officer were given another opportunity to approach the Revenue authorities to get patta. The time limit fixed in the said Government Order was extended till 30.06.1975 by G.O.Ms.No.589 Commercial Taxes and Religious Endowments Department dated 14.05.1975. The 1st respondent did not utilise the opportunity and did not apply for patta within the time. The learned Judge erred in holding that the 1st respondent made an application on 21.03.1974, but failed to consider the statement made by the 1st respondent before the 2nd appellant during *suo motu* enquiry. The 1st respondent approached the 3rd appellant after 15 years from 30.06.1975 and the 3rd appellant, without any authority, by order dated 25.10.1997 granted patta to the 1st respondent to the extent of 15.68 acres. The learned Judge erred in holding that the *suo motu* proceedings initiated by the 2nd appellant after 8 years is time barred. As per G.O.Ms.No.1300, Revenue Department dated 30.04.1971, the time limit of 60 days is fixed only for the aggrieved party to file a revision before the 2nd appellant. No time limit is fixed for initiating *suo motu* proceedings by the 2nd appellant. The 1st respondent failed to prove that he made an application for issue of patta on 21.03.1974. The 1st respondent has produced only xerox copies and has not explained for not producing office copy. The 1st respondent obtained patta in collusion with Rajamani, the then DRO and after obtaining patta, sold a portion of the land to the close relative of Rajamani. There is a contradiction in the names in the original SLR and the photocopy of the SLR produced by the 1st respondent. The 1st respondent himself admitted during settlement process, report of the Tahsildar stating that the land in question is in the occupation of four persons, whose names were entered in the Adangal Register. The learned Judge did not consider the fact that the then DRO manipulated the documents and granted patta on 25.10.1997. The 2nd appellant considering all the materials, rightly cancelled the patta and prayed for allowing the appeal by setting aside the order of the learned Single Judge.

8. The learned counsel appearing for the respondents reiterated the averments made in the affidavit and made submissions in support of the order of the learned Single Judge and prayed for dismissal of the appeal.

9. Heard Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.A.Selvendran, learned Special Government Pleader appearing for the appellants and the learned counsel appearing for the respondents and perused the entire materials on record.

10. From the above rival submissions, it is seen that it is the case of the learned Additional Advocate General appearing for the appellants that 1st respondent made an application on 03.09.1993 for issuance of patta only after 15 years time limit fixed by the Government and therefore, the 1st respondent is not entitled to issue patta in his name. The 1st respondent made an application for issuance of patta only on 03.09.1993. During the hearing before the learned Single Judge, the file relating to issue of patta was produced. At the time of hearing of this writ appeal also, file is produced. A perusal of the file shows that the 1st respondent has made an

application on 21.03.1974 within the cut off date fixed by the Government Order. The 3rd appellant referred the application to the 4th appellant and called for a report from the 4th appellant. The 4th appellant invited objections from the public and after enquiry, recommended for granting patta to the 1st respondent. Along with the report, the Tahsildar has enclosed a copy of the publication notice, village account extract and a statement of the Village Administrative Officer (VAO). The VAO has stated that the 1st respondent is in continuous possession and enjoyment of the land. The 1st respondent has produced documents to show that he is in continuous possession and enjoyment of the land from the date of purchase i.e., from the year 1935. He also produced kist receipts to show that he was cultivating the land from the date of his purchase. The application of the 1st respondent dated 21.03.1974 is found at page number 109 of the file and reference of the said application to the 4th appellant is also found in page number 115 of the file. From the file produced by the appellants, it is clear that the 1st respondent has made an application for issue of patta on 21.03.1974, within the time limit fixed by the Government in G.O.Ms.No.1300, Revenue Department dated 30.04.1971. The 3rd appellant immediately on 07.04.1994 referred the application of the 1st respondent to the 4th appellant, who after inviting objections and after due enquiry, recommended for issue of patta.

11. The contention of the learned Additional Advocate General appearing for the appellants that the property in question was in occupation of four persons and the 1st respondent was not in possession was not supported by any materials. Even after publication calling for objections if any for issue of patta to the 1st respondent, nobody has objected for issue of patta to the 1st respondent. From the statement of the VAO, it is clear that the 1st respondent was in continuous possession and enjoyment of the land. From the file produced by the learned Additional Advocate General appearing for the appellants, it is seen that a copy of the application made to the 1st respondent is available and the acknowledgment card is also available. Therefore, the contention of the learned Additional Advocate General appearing for the appellants that the 1st respondent made an application only after 15 years of cut off date is not acceptable.

12. As far as the allegation made against the then DRO Rajamani is concerned, vigilance enquiry is only with regard to possession of disproportionate wealth to the known source of income. There is no vigilance report that DRO, in collusion with the 1st respondent, issued patta to the 1st respondent. Therefore, the reason given by the 2nd appellant in initiating *suo motu* proceedings, after 8 years of issue of patta is without merits and is not acceptable. The learned Single Judge took note of the fact that the 1st respondent gave an application even before Rajamani became the DRO, Kancheepuram and the then DRO referred the application of the 1st respondent to the 4th appellant, Tahsildar, calling for a report. The 1st respondent was issued patta based on the report of the 4th appellant after recommending issue of patta after due enquiry and obtaining a report from the VAO. In view of the above materials, it cannot be said that the 1st respondent, in collusion with the then DRO with the respondents issued patta without any authority so as to benefit his close relative.

13. From the above materials, it is clear that the learned Single Judge elaborately considered the materials and by giving cogent and valid reasons

held that the 1st respondent made an application on 07.04.1974, before the cut off date fixed in the Government Order and quashed the impugned order of the 2nd appellant. The appellants have not made out any case for setting aside the order of the learned Single Judge.

14. In the result, the writ appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(V.M.V.,J.)　　(R.H.,J.)
08.02.2023

Index : Yes/No
Neutral Citation : Yes / No
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