



W.P.(MD)No.2825 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.2825 of 2021

and

W.M.P.(MD)No.2311 of 2021

R.Thirumalaisamy

... Petitioner

vs.

1.The District Collector,
Sivagangai.

2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

3.The Tahsildar,
Karaikudi Taluk, Sivagangai.

4.The Commissioner of Survey and Settlement,
Department of Survey and Settlement,
Chennai.

5.The Commissioner of Land Administration,
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk,
Chennai.

6.The District Revenue Officer,
Sivagangai, Sivagangai District.

... Respondents



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(R4 and R5 were *suo motu* impleaded vide order of this Court, dated 01.09.2023)

(R6 was *suo motu* impleaded vide order of this Court, dated 20.12.2023)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned change of land classification made by the 2nd respondent and quash the same directing the respondents herein to restore petitioner's name in the revenue records in respect of land to an extent of 21 cents in Sy.No.9/137 Sekkalaikottai Village, Vairampuram, Karaikudi Taluk, Sivagangai District.

For Petitioner :Mr.K.P.Narayanakumar
for Mr.A.Balakrishnan
For Respondents :Mr.B.Saravanan
Additional Government Pleader

ORDER

The District Revenue Officer, Sivagangai District, Sivagangai, is *suo motu* impleaded as sixth respondent in this Writ Petition and Mr.B.Saravanan, learned Additional Government Pleader takes notice on his behalf.

2.This Writ Petition has been filed questioning the re-classification of the land belonging to the petitioner in S.No.9/137 Sekkalaikottai



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Village, Vairampuram, Karaikudi Taluk, Sivagangai District and for a further direction to the respondents to restore the name of the petitioner in the revenue records with respect to the subject property.

3.The case of the petitioner is that he purchased the subject property through a registered sale deed, dated 06.01.1982 registered as Doc.No.22/1982 from one Ponnampalam. Thereafter, the petitioner also obtained patta in his name and all the revenue records were mutated in the name of the petitioner. This was pursuant to the proceedings of the Assistant Settlement Officer, dated 08.01.1996. According to the petitioner, he was in possession and enjoyment of the subject property and he was regularly paying the property tax.

4.The petitioner came to know that in the revenue records, the subject property was classified as a Government poramboke. The petitioner was not aware as to when this development had taken place and the proceedings through which the land was re-classified. Hence, the petitioner was giving repeated representations to the authorities and the same did not evoke any response. It is under these circumstances, the



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present Writ Petition came to be filed before this Court.

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5. When the matter came up for hearing on 17.11.2023, this Court passed the following order:

“The learned Additional Government Pleader seeks for some time. This Court had already directed the impleaded respondents to submit a report before this Court.

2. It is seen from the records that originally through proceedings of the Assistant Settlement Officer, dated 18.01.1996, patta was directed to be issued in favour of the petitioner. The patta that stood in the name of the petitioner in Patta No.424 with respect to the property in Survey No.9/137 is also available at page No.16 of the typed set of papers. The grievance of the petitioner is that all of a sudden in the “A” Register, Survey No. 9/137 has been classified as “Poramboke” and thereby, the right and title over the subject property has been put to question.

3. The learned Additional Government Pleader shall take instructions as to when the property was re-classified as “Poramboke” and by which authority. This clarification is required since already the Assistant Settlement Officer has conducted the proceeding and the patta was also issued in the name of the petitioner.

4. Post this Writ Petition under the caption “For Orders” on 04.12.2023. No further adjournment will be granted in this case.”

6. The case was once again listed for hearing on 06.12.2023 and this Court passed the following order:

“Pursuant to the earlier order passed by this Court on 17.11.2023, the matter was posted for hearing today.

2. The second respondent has filed a counter affidavit



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before this Court and has taken the following stand:

“3. It is submitted that the whole dispute revolves arounds the land in Survey No.9/137 at Sekkalaikottai Group, Karaikudi Taluk, Sivagangai District to an extent of 21 cents. The petitioner has purchased the said land vide Document No.22 of 1982 from one Ponnambalam. Thereafter the Assistant Settlement Officer vide Proceedings in Na.Ka.No.8753/95/E2 dated 18.01.1996 has issued Patta in favour of the Petitioner. There involves a huge defects in issuing the Patta to the Petitioner and others in the above said Village by one Muthukrishnan who was worked as ASO who has granted various Patta illegally to several persons. The said act was identified and criminal cases were foisted against the said Muthukrishnan.

4.It is submitted that in a batch of Writ Petitions filed before this Hon'ble Court by granting of Patta, this Hon'ble High Court passed an order dated 24.09.2008 that the illegal order passed by aforesaid Muthukrishnan should not be implemented the Village Accounts. As per the direction of the Hon'ble Court the Sub-Collector, Devakottai has verified whether the orders passed by the said Muthukrishnan has been implemented or not. The Patta issued to the Petitioner by the aforesaid Muthukrishnan was implemented by this Respondent on 15.08.1996. Moreover, an enquiry notice was issued to the Petitioner by the SubCollector, Devakottai and directed to appear on 14.10.2008. Subsequently, the Petitioner and others were appeared for enquiry has submitted their explanations. On perusal of all the materials it was found that the disputed lands come under Forest area and therefore it was found that without adhering rules under RSO 31(8), the Revenue Records were mutated and therefore by Proceedings dated 30.10.2008 vide Na.Ka.No.A1/3343/2008, a Sub-Collector, Devakottai has cancelled the Petitioner's Patta in Survey No.9/137 vide Patta No.424 and the said order was communicated to the Petitioner.

5. It is submitted that the 4th Respondent has taken suo moto application with regard to cancellation of Patta granted to the Petitioner and others in the above said Village and passed an order 10.02.2010 that the Patta has been granted to the Petitioner and others which were against the norms incurred in GO(Ms)No.714 Commercial and HR&CE Department dated 29.06.1987 and cancelled the order passed by the ASO who



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issued the illegal Patta to 144 persons and the said order also communicated to the Petitioner.

6. It is submitted that the Petitioner's land was mutated as "Government Poramboke" only after giving due opportunity and following the Principles of Natural Justice. Moreover, the order passed for cancelling the Patta was upon the directions of this Hon'ble High Court by an order dated 24.09.2008 in W.P. (MD).Nos.2094 of 2006 etc., batch. The order passed by the Sub-Collector, Devakottai dated 20.01.1996 and the order passed by the 4th Respondent dated 10.02.2010 was duly served to the Petitioner and suppressing the said facts has filed the present Writ Petition and therefore the Petitioner has not come with the clean hands.

7. It is submitted that the Patta was cancelled by an order dated 30.10.2008 but the Petitioner after a lapse of 13 years has filed the present Writ Petition which amongst to latches. The Petitioner or any other aggrieved person has not preferred any appeal against the order made in W.P.(MD).No.2094 of 2006 etc., batch dated 24.09.2008. Further the Petitioner if aggrieved over the order passed by the 4th Respondent, he ought to have approached the 5th Respondent who is the appellate authority."

3.The learned Additional Government Pleader appearing on behalf of the respondents submitted that the patta that was issued to the petitioner was found to be illegal and the same was cancelled and hence according to the respondents, the petitioner is an encroacher and he will be evicted from the subject property by following due process of law. The learned Additional Government Pleader further submitted that almost 144 persons were issued with illegal patta by one Muthu Krishnan, who was the Assistant Settlement Officer at the relevant point of time. On enquiry, it was found that the said official Muthu Krishnan has granted various pattas illegally to several persons. This Court by an order dated 24.09.2008 in W.P. (MD).No.2904 of 2005 etc., batch issued various directions and pursuant to the same, the Sub Collector, Devakottai passed an order on 20.01.1996 and the consequential order was passed by the fourth respondent dated 10.02.2010 and the said proceeding was also served on the petitioner. It was therefore contended that the petitioner had concealed all these facts and he knew that the patta has already been cancelled long back and without revealing the same, the



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present Writ Petition was filed in the year 2021. The learned Additional Government Pleader submitted that the present Writ Petition is liable to be dismissed on the ground of laches. The learned Additional Government Pleader also relied upon the judgment of the Division Bench of this Court in W.A.(MD).No.618 of 2009 etc., batch dated 24.03.2021.

4.The learned counsel for the petitioner submitted that the petitioner was not aware about any of the earlier proceedings and no notice was served on him at any point of time.

5. Therefore, there shall be a direction to the second respondent to produce the entire original records pertaining to this case, more particularly the proceedings through which the patta was cancelled and the service of notice on the petitioner with regard to the same.

6.Post this case under the same caption on 13.12.2023.”

7.When the matter was listed for hearing on 13.12.2023, the affidavit filed by the petitioner was brought to the notice of this Court. In this affidavit, the petitioner took a very specific stand that the patta was not granted to the petitioner pursuant to the *suo motu* decision that was taken by the Assistant Settlement Officer, Mr.Muthu Krishnan and that patta was granted to the petitioner only by considering the report of the Director of Land Survey through proceedings, dated 12.01.1996. To substantiate the same, the learned Counsel for the petitioner also drew the attention of this Court to the proceedings of the Assistant Settlement Officer, dated 18.01.1996, wherein, the proceedings, dated 12.01.1996, is mentioned as Reference No.5. Further, it is stated in the affidavit that the



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petitioner never received any enquiry notice nor did the petitioner attend any enquiry and the petitioner was not aware about the proceedings of the Sub Collector, Devakottai, dated 30.10.2008. Since the petitioner took a very specific stand that he was never put on notice and he was not even aware about the proceedings of the Sub Collector, Devakottai, dated 30.10.2008, this Court directed the learned Additional Government Pleader to produce the entire original records. Accordingly, the matter was directed to be listed today.

8. When the matter was taken up for hearing today, Mr.S.Moorthy, P.A. to Revenue Divisional Officer (Tahsildar), Devakottai, Sivagangai District, was present along with the original records. On going through the same, there is no material to show that the petitioner was put on notice by the Sub Collector, Devakottai and that the petitioner had participated in the enquiry and further, the petitioner was made aware about the proceedings of the Sub Collector, Devakottai, dated 30.10.2008. Hence, the stand that was taken by the petitioner in the affidavit filed before this Court stands fortified.



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9.The learned Counsel for the petitioner submitted that the entire proceedings had taken place behind the back of the petitioner and consequent upon the same, the re-classification of the land had taken place which requires the interference of this Court. The learned Counsel for the petitioner submitted that the entire misunderstanding on the part of the respondents is to have assumed that the petitioner was granted patta by virtue of the *suo motu* decision taken by the Assistant Settlement Officer, Madurai, Mr.Muthu Krishnan. Whereas, the patta was granted in favour of the petitioner only after considering the report of the Director of Land Survey through proceedings, dated 12.01.1996, which was discussed in detail by the Assistant Settlement Officer in his proceedings dated 18.01.1996.

10.In the considered view of this Court, there seems to be a genuine grievance for the petitioner, since the land belonging to the petitioner has been re-classified as a Government poramboke without issuing any notice to the petitioner. In view of the same, the petitioner was not able to putforth his case before the authority and place all the relevant materials. Therefore, the grievance expressed by the petitioner



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has to be redressed by this Court.

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11.The crux of the issue to be dealt with would be as to whether the case of the petitioner will also fall within the mischief of the proceedings of the Assistant Settlement Officer, Mr.Muthu Krishnan, which was found to be fraudulent subsequently and was interfered with or the claim made by the petitioner is based on the report of the Director of Land Survey through proceedings, dated 12.01.1996, which culminated into the proceedings of the Assistant Settlement Officer, dated 18.01.1996 by virtue of which, the petitioner was granted patta for the subject property. This requires an enquiry by a competent authority. In view of the same, this Court is inclined to grant liberty to the petitioner to file an appeal before the District Revenue Officer, Sivagangai, against the proceedings of the Sub Collector, Devakottai, dated 30.10.2008, insofar as the property belonging to the petitioner.

12.In the light of the above discussion, there shall be a direction to the petitioner to submit an appeal/representation before the impleaded sixth respondent within a period of four weeks from the date of receipt of



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a copy of this order. The impleaded sixth respondent shall conduct an enquiry based on the materials placed by the petitioner and also the revenue records available including the proceedings of the Director of Land Survey, dated 12.01.1996 and also the proceedings of the Assistant Settlement Officer, Madurai, dated 18.01.1996. Ultimately, final order shall be passed by the impleaded sixth respondent within a period of three months thereafter. Till final orders are passed by the District Revenue Officer, Sivagangai, the present status-quo shall be maintained.

13.This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

20.12.2023

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- 2.The Revenue Divisional Officer,
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N.ANAND VENKATESH, J.

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