



W.P.(MD)No.17406 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 17406 of 2020

and

W.M.P.(MD)No.14544 of 2020

Arulmigu Karpaga Vinayagar Temple,
Rep. by Trustee,
Thangam, W/o.Late Natarajan,
Pallathur Village,
Pattukotai Taluk.

... Petitioner

Vs.

- 1.The District Collector
District Collectorate,
No.1 Vallam Road,
Thanjavur.
- 2.The Tahsildar
Thanjavur Taluk,
Thanjavur.
- 3.Block Development Officer
Sethubavu Chattiram,
Pattukottai Taluk,
Thanjavur District.



W.P.(MD)No.17406 of 2020

WEB COPY

4.The President
Panchayat Board,
Pallathur,
Pattukottai Taluk,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to implement the orders of Assistant Settlement Officer, Thanjavur passed in Sec.No.11/SX/7/PKT/65 dated 09.08.1965 in respect of S.No.3/3 and 3/4 situated at Pallathur Village, Pattukottai Taluk, for changing the revenue records.

For Petitioner : Mr.V.K.Vijayaragavan

For Respondents : Mr.C.Baskaran
Government Advocate

ORDER

This writ petition is filed seeking direction to the respondents to implement the orders of Assistant Settlement Officer, Thanjavur passed in Sec.No.11/SX/7/PKT/65 dated 09.08.1965 in respect of S.No.3/3 and 3/4 situated at Pallathur Village, Pattukottai Taluk, for changing the revenue records.



W.P.(MD)No.17406 of 2020

2. Heard Mr.V.K.Vijayaragavan, the Learned Counsel appearing for the Petitioner, Mr.C.Baskaran, the Learned Government Advocate appearing for the respondents and perused the material documents available on record.

3. The contention of the petitioner is that the land in dispute in S.No. 3/3 admeasuring 0.45 cents and S.No.3/4 admeasuring 0.5 cents situated in Pallathur Village, belong to the Arulmigu Karpaga Vinayagar temple as per the registered sale deed dated 12.07.2012 and the lands are under the possession and enjoyment of the petitioner. The said temple was founded by the petitioner's husband's ancestors and is constructed in S.No.3/4 and it is being administered and maintained by the petitioner's husband and his ancestors in continuous succession without break from inception and the land is required exclusively for temple purposes.

4. The petitioner further submitted that in the original proceedings before the Assistant Settlement Officer patta was not granted. Then the temple represented by its Trustee Chidambara Vellalar had preferred revision petition before the Director of Settlements, Madras under section 5(2) of Estate Abolition



W.P.(MD)No.17406 of 2020

WEB COPY

Act and after enquiry issued direction for fresh disposal vide proceedings in K.Dis.12535/1965 dated 03.06.1965. On remand the petitioner's predecessor and the village Karnam was examined. The Karnam had deposed that the temple belongs to the petitioner's family and it is private institution. The petitioner's ancestors had claimed patta for three survey numbers in 3/2, 3/3, 3/4, but patta was granted only for 3/3 and 3/4, but patta was declined for 3/2 since it is marked as tank, but the tank belong to the temple. No appeal was filed against the said order. Therefore, the patta granted under section 11 of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act 1948 has attained finality. Hence, the said land belongs to the temple as per the registered sale deed, dated 12.07.1912 and also as per the Assistant Settlement Officer patta order dated 06.08.1965. In spite of the said order, which has been passed as early as on 06.08.1965, the respondents have not carried out the consequential changes in the village records in spite of repeated requests. Now the Panchayat is encroaching the land belonging to the temple and trying to put up water tank. The panchayat had dig earth to erect pillars.



W.P.(MD)No.17406 of 2020

WEB COPY

5. The contention of the respondents is that the said land is classified as “government porampooku tharisu” as per the village records. Moreover, as per Assistant Settlement Officer’s proceedings No.11/SX/7/PKT/65 dated 09.08.1965, the petitioner ought to have approached the authorities to issue patta under UDR scheme and also ought to have approached under Natham Nilavari Thittam to issue patta, but the petitioner had failed to do so. As on date the land stands as “government porampooku” and in the said land water tank is constructed under the Central Government Jal Jeevan Scheme 2020-2021. The remaining portion of the land Vinayakar temple is constructed and the said temple belongs to HR&CE.

6. After hearing the rival submissions this Court had given its anxious consideration. The petitioner and the respondents accept that there is a temple, but the petitioner claims that it is their private temple and the respondent claims it belongs to HR&CE. But that is not the issue raised in this writ petition and the respondent has no right to raise this issue.



W.P.(MD)No.17406 of 2020

WEB COPY

7. The contention of the petitioner is that after the Assistant Settlement Officer patta order dated 06.08.1965 the respondent had not carried out the consequential change in the village records. The contention of the respondent is that after the Assistant Settlement Officer patta order dated 06.08.1965 the petitioner had not approached the authorities to carry out changes in the village records. But the Learned Senior Counsel refuted the contention of the respondent and submitted that the petitioner approached the authorities several times, the final representation is dated 20.11.2020. On earlier occasion the petitioner submitted representation to District Revenue Officer, Thanjavur on 21.10.2019, who directed the Sub Collector to investigate and send a report to him. The Sub Collector had in turn directed the Tahsildar to conduct enquiry. The Learned Senior Counsel further submitted that even it is accepted that the respondent's contention is correct that the petitioner had not approached the respondent for carryout the changes in the village records, it is statutory duty cast on the respondent to carry out the consequential changes for which the Learned Senior Counsel relied on the judgement dated 06.10.2020 of the Hon'ble Division Bench rendered in W.A.No.284 of 2020 in the case of Ramesh Vs. Union of India and others reported in 2021 (1) CTC 1.



W.P.(MD)No.17406 of 2020

WEB COPY

.....

19. To substantiate his submissions further on the issue of mutation of the name of the appellant, Mr.Raghavachari contends that the situation in the Union Territory of Puducherry is slightly different as compared to the State of Tamil Nadu in respect of mutations in the revenue records. **He submits that Sections 17, 18 and 19 of the Puducherry Settlement Act, 1970 cast a statutory duty on the part of the Registration Authority registering a document, the Collector and the authorities specified by him to carry out mutations in the revenue records of the registered documents which they are obliged to do under the aforesaid provisions without there being any necessity of any application being moved by a person who acquires the property by a registered document.** He has invited the attention of the Court to the proviso to Section 17(1), Section 18 and Section 19(2) of the Puducherry Settlement Act, 1970 to contend that when it is the duty of the Collector and the officials specified by him to mutate the name of a person who acquires a property through a registered document then, any failure on the part of the Registering Authority to intimate the same to the Collector and the consequential failure on the part of the authorities concerned in not mutating the name of the appellant cannot be a fault attributed to the appellant. He submits that this being a statutory obligation, the Collector himself while proceeding in the land acquisition matter was obliged to make such enquiries from the Registering Authority or the Registering Authority ought to have intimated the Collector about the transfer of such land where the mutation whereof was necessary. He contends that this lapse on the part of the authorities concerned cannot defeat the right of the appellant as it was the respondent who was responsible for carrying out the mutation. There being no obligation cast on the appellant, the said circumstance of non-



W.P.(MD)No.17406 of 2020

WEB COPY

mutation of the property cannot be read adverse to the appellant.

20...

21...

22...

23. Having heard learned counsel for the parties, there is no dispute with the proposition relating to service of notice, which was admittedly not given to the recorded tenure holder; as Arumugam, whose name was recorded, had died on 18.9.1998, long before the acquisition proceedings set into motion. It is thus admitted that service of notice was sought to be effected on a dead person, which was obviously not done, and that is why the Collector referred the matter under Section 30 of the 1894 Act to the Court. This approach of the Collector does not appear to be correct and is not in conformity with law, for which reliance having been placed by the learned counsel for the appellant on the decisions cited at the Bar is justified. He has also justifiably relied on the judgment of a Division Bench of this Court in the case of *Ravisam v. Government of Tamil Nadu*, (2020) 5 MLJ 720. Apart from this, it is also correct that after the award was delivered, a copy of the award has not been served either on the recorded tenure holder or on the appellant. On principles, therefore, these arguments cannot be brushed aside, but may not have a bearing, in as much as the appellant has not challenged the acquisition proceedings culminating in the award. The award cannot be possibly challenged now after almost 11 years. What he has come forward contending is that his right to seek enhancement of compensation at least cannot be taken away. ***This has, therefore, to be examined and to that extent we find that the argument of the learned counsel for the appellant that mutation of the name of the appellant was the responsibility of the State appears to be correct. It is for this specific reason that 1970 Act of***



W.P.(MD)No.17406 of 2020

WEB COPY

Puducherry, referred to above, clearly obliges the revenue authorities to carry out mutation in so far as it relates to acquisition of property through registered documents.”

In present case the respondents accepted that there is a proceeding of the Assistant Settlement Officer's in proceedings No.11/SX/7/PKT/65 dated 09.08.1965, but the respondents contended that the petitioner had not approached the authorities for passing the consequential changes in the village records. Therefore, this Court is of the considered opinion that once the revenue authorities is having knowledge of the Assistant Settlement Officer's proceedings Sec No.11/SX/7/PKT/65 dated 09.08.1965 which has granted ryoti interest in the land, then a statutory duty is cast on the Revenue Authorities to give effect to the order of the Assistant Settlement Officer's order and the Revenue Authorities ought to have carryout the necessary changes in the Village Records. Therefore, this Court is directing the respondents to implement the order of the Assistant Settlement Officer's proceedings Sec No.11/SX/7/PKT/65 dated 09.08.1965 in respect of S.No.3/3 and 3/4 and issue Patta within a period of Four weeks from the date of receipt of a copy of the Order.



W.P.(MD)No.17406 of 2020

WEB COPY

8. Pending writ petition, the respondents have put up Over Head Water Tank. According to the petitioner, the same is illegally constructed when the writ petition is pending. Therefore, it is open to the parties to take action as per Law.

9. With the above observations and directions, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

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

28.08.2023

ksa



W.P.(MD)No.17406 of 2020

WEB COPY

To

- 1.The District Collector
District Collectorate,
No.1 Vallam Road,
Thanjavur.
- 2.The Tahsildar
Thanjavur Taluk,
Thanjavur.
- 3.Block Development Officer
Sethubavu Chattiram,
Pattukottai Taluk,
Thanjavur District.
- 4.The President
Panchayat Board,
Pallathur,
Pattukottai Tk.,
Thanjavur District.



WEB COPY



W.P.(MD)No.17406 of 2020

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 17406 of 2020**

28.08.2023