BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22508 of 2015

M.David ... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The District Revenue Officer,
Tirunelveli,
Tirunelveli District.

3.The Tahsildar,
Ambasamudram Taluk,
Ambasamudram,
Tirunelveli District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in O.Mu.Ka.2/ 41681/2015, dated 31.8.2015 and quash the same and consequently direct the respondents to issue patta in favour of the petitioner by changing the classification of the lands in Survey Nos.899/2, 900/1, 900/2, 900/3, 901, 902, 908, 909, 914, 916, 922/1 and 924 of South Veeravanallur Part II of Ambasamudram Taluk, Tirunelveli District.

For Petitioner : Mr.S.S.Thesigan

For Respondents : Mrs.K.Christy Theboral
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner had purchased the petition mentioned lands from the legal heirs of one Gajendra Varadhar. The said Gajendra Varadhar had five sons and two daughters born through three wives. There was a lot of dispute among the family members. Litigation commenced way back in the year 1962 and the second appeals were filed before this Court in the year 1967 and the matter even went upto the Supreme Court. The clear stand of the petitioner is that Gajendra Varadhar had acquired the property vide registered sale deeds dated 14.06.1947 and 16.04.1948. When the petitioner approached the authorities for issuance of patta, it was rejected on the ground that the lands have been classified as 'அரசு நஞ்சை குறிப்பு கலத்தில் கட்டுக்குத்தகை'. The District Revenue Officer, Tirunelveli informed this Court the stand of the petitioner vide memorandum dated 31.08.2015.

3. After considering rival contentions, I am more than satisfied that the impugned memorandum has to be set aside and the relief has to be given to the petitioner herein. The learned counsel appearing for the petitioner relies on the circular issued by the Additional Chief Secretary/Commissioner of Land Administration, Chepauk, Chennai issued vide Roc.K1/29575/2013, dated 14.04.2014. Paragraph Nos.6, 7 and 8 of the said circular read as follows:-

> *"6. It is seen from the Resurvey and Resettlement Register published in the year 1911, Milavittan Village is a Ryotwari Village and certain Survey numbers in the Village have been recorded as "Government Dry" and assessment of fixed rent or Kattukuthugai to be levied. In the book 'Land Tenures in the Madras Presidency by 'Sundaraja Iyengar, Kattukuthagai has been defined as the lands held at a fixed money rent less than full assessment. According to the Resurvey and Resettlement Register of the year 1911, the S.No 1622/1 measuring 81.93 Acres was classified as "Government Dry" and recorded as Kattukuthagai and also registered in the names of Individuals under patta no 729. During the Updating Registry Scheme, the S.No 1622/1 was subdivided as 1622/1A, 1B1.1C and 1D1and recorded as Kattukuthagai Punjai and registered in the names of Thiru Maniappan and 8 others under patta no 3225. At the same time, the lands which were classified as Government Dry or*

Wet with regular assessment in the year 1911 Resurvey and Resettlement Register have been recorded as 'Ryotwari punjai' in the Updating Registry Scheme 'A' register. Only the lands which were recorded as Kattukuthagai in the 1911 Resurvey and Resettlement Register have been recorded as Kattukuthagai Punjai with the fixed assessment in the Updating Registry Scheme. However, it is seen from the Updating Registry Scheme 'A' Register, some Survey Numbers, which were recorded as above have been changed as Ryotwari from Kattukuthagai and class, sort, tharam of soil and assessment rate have been entered in the 'A' register. It cannot be ascertained either from the District Revenue Officer's proposal or the copies of Village Accounts, when and why these changes were entered in the Village Accounts. At the same time, no order has been passed by the Commissioner of Land Administration to keep the Kattukuthagai Patta Lands as 'Government Dry' or to convert the patta for these lands as a Vacant patta in the computer records. The reason for this has not been brought out in the proposal of the District Revenue Officer.

7. The Abolition Acts have been enacted to abolish the Land Tenures and to introduce the uniform Ryotwari System in the State. As the Milavittan Village is a Ryotwari Village and the Kattukuthagai lands are not covered under any Inam Title Deed, it is not required or possible to carry out the settlement process in the village once again. However, a *detailed perusal of the records shows that the term 'Kattukuthagai' in the village records seems to indicate that the land had a fixed assessment of land revenue and not a regular one. These lands as well as the land which had a regular assessment of land revenue (and were subsequently classified as Ryotwari lands in the Updating Registry Scheme 'A' Register) were originally classified as 'Government Dry' or 'Wet' in the 1911 Resurvey and Resettlement Register. Further, these Kattukuthagai assessment lands (which are to be differentiated from the Kattukuthagai kulams which have been clearly classified as Government poramboke) have been registered in the names of Individuals from the 1911 Resurvey and Resettlement Register. Since the original method of assessment of land revenue was different and it was specifically recorded so during the settlement, there seems to be no case to change the classification or the assessment at this stage to Ryotwari punjai' without further going into the reasons behind such a differential assessment. However, the classification of the land as Kattukuttagai does not seem to bar the land holders from carrying out transactions on these lands for which they have been originally holding patta.*

8.In these circumstances, the District Revenue Officer, Thoothukudi is requested to look into this matter and examine all the land records and ensure that the correct entries are made in the Village records and Taluk Computer.

The District Revenue Officer, Thoothukudi is instructed to pass necessary orders on the request of the petitioners within 3 months time from the date of receipt of this order."

He also draws my attention to the decision of the Madras High Court reported in ***1964 1 MLJ 232 (State of Madras Vs. S.P.K.Koya)***. In this decision, the expression 'Kattukuthagai' has been dealt with. Relief can be granted to the petitioner on the strength of the circular issued by the Commissioner of Land Administration. There are two other circumstances in favour of the petitioner. The learned counsel for the petitioner has enclosed in the typed set of papers the patta issued in favour of his vendor Palanisamy Thevar. Having issued in favour of the petitioner's vendor, the respondents cannot deny entering the name of the petitioner in the place of his vendor. Even in the impugned memorandum, there is a reference only to UDR and resurvey register entries. The respondents have not enclosed the original revenue entries in the typed set of papers. I therefore set aside the impugned order. The respondents 2 & 3 are directed to issue patta in respect of the petition mentioned land in favour of the petitioner.

4.The Writ Petition is allowed. No costs.

31.07.2023

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

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G.R.SWAMINATHAN, J.

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