



W.A(MD)No.1408 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.A(MD)No.1408 of 2022

G.Palraj

... Appellant/
Writ Petitioner

Vs.

1.The Commissioner,
Land Administration, Survey and
Settlement,
Land Administration Office,
Chepauk,
Chennai – 600 005.

2.The Settlement Officer,
Thanjavur,
Thanjavur District.

3.The District Revenue Officer,
Tirunelveli District,
Tirunelveli,
Now called as Tenkasi District.

4.The Tahsildar,
Sankarankovil Taluk,
Tirunelveli District and
Now called as Tenkasi District.

... Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order made in W.P(MD)No.2356 of 2013 dated 25.08.2022.

For Petitioner : Mr.S.Palani Velayutham
For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard both sides.

2. This intra-court appeal is directed against the order dated 25.08.2022 passed by a learned single judge dismissing W.P(MD)No.2356 of 2013 filed by the appellant herein. The appellant herein was granted ryotwari patta by the Settlement Officer, Thanjavur vide proceedings dated 29.03.2000. This was *suo motu* reviewed by the Commissioner of Land Administrative, Survey and Settlement, Chennai – 5 vide proceedings dated 23.09.2010. Questioning the same, the appellant herein filed the said writ petition.

3. The primary ground taken by the appellant before the learned single Judge was that when patta was issued in his favour in the year 2000, it could not have been *suo motu* reviewed after a lapse of ten years. He would



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further contend that when statute provides for an appeal remedy, the question of invoking the *suo motu* revision power would not arise at all. Both these contentions were considered by the learned single Judge. Paragraphs 7 to 10 of the said order read as follows:

“7.The petitioner had made an application to the Assistant Settlement Officer on 25.09.1999 for grant of patta for 3 acres in 3 different survey numbers. The Settlement Officer namely the second respondent herein by his order dated 29.03.2000 has granted Patta under Section 11(a) of Act 26 of 1948. Thereafter, a Patta has been granted in favour of the writ petitioner in Patta No.2186.

8.The first respondent herein has initiated suo motu proceedings under Section 5(2) of Act 26 of 1948 and had issued a notice to the writ petitioner as against the order of the second respondent dated 29.03.2000. A perusal of the impugned order indicates that all three survey numbers for which the petitioner has sought for patta, have been classification as Odai poramboke. This classification was made during the settlement proceedings under Act 26 of 1948. This classification has not been challenged by the writ petitioner or his father at any point of time especially within a period of limitation as prescribed under the said Act.



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9.The first respondent has further found that after a period of 38 years namely on 29.11.1999, the petitioner had made an application to the Assistant Settlement Officer and the order has been passed by the settlement officer on 29.03.2000. As per G.O.Ms.No.714, Revenue Department, dated 29.06.1987, the Settlement Officer under Act 26 of 1948 is not entitled to accept any application for grant of patta if such application are presented after 20.08.1987. In the present case, the application having been filed in the year 1999 and the Settlement Officer ought not to have accepted the said application. The first respondent has further found that the survey number in dispute have been leased out to Tamil Nadu Cement Corporation Limited under G.O.(P).No. 672, Industries Department, dated 31.08.1999 for quarrying of Lime stone. Only thereafter an application has been filed by the petitioner for grant of settlement patta. The first respondent has further found that the petitioner has not produced any document to establish his title or possession over the disputed survey numbers prior to Act 26 of 1948.

10.The impugned order has been passed by the first respondent herein on the ground that the Patta granted by the Settlement Officer is without jurisdiction and the lands have been leased out to Tamil Nadu Cement Corporation Ltd., and the petitioner has not produced even a single document to establish his title or possession before coming into force of



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Act 26 of 1948. Even before this Court, the petitioner has not produced any document to establish his title or possession which is anterior to coming into force of Act 26 of 1948.”

The reasons assigned by the learned single Judge are sound and we are clearly of the view that the writ petition was rightly dismissed. More than anything else, the land for which patta was issued had been classified as “Odai Poramboke” in the revenue record. It is well settled that a water body has to be maintained as such and patta cannot be issued in respect of a water body. This elementary principle was grossly breached by the settlement officer, Thanjavur. Section 14(A) of the Act 26 of 1948 reads as follows:

“14-A (1) Notwithstanding anything contained in this Act, no ryotwari patta shall be granted in respect of any private tank or oorani.

(2) Any ryotwari patta grarded in respect of any private tank or oorani under this Act before the date of the publication of the Tamil Nadu Estates (Abolition and Conversion in to Ryotwari) Amendment Act, 1974, in the Tamil Nadu Government Gazette, shall stand cancelled, and for purposes of compensation under this Act, the private tank or oorani shall be deemed to be land in respect of which neither the landholder nor any other person is entitled to any ryotwari patta under this Act.”



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In this view of the matter, the order impugned in this writ appeal does not
warrant interference.

4. This Writ Appeal stands dismissed. There shall be no order as to
costs.

[G.R.S., J.] [B.P., J.]
20.09.2023

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

To

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