



W.P.(MD)No.4388 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.03.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.4388 of 2016

W.M.P(MD).Nos.3917 of 2016, 12587 of 2017 and 18279 of 2018

- 1.Thirumal Alagu
- 2.Ramasamy
- 3.Natarajan
- 4.K.Jeganathan
- 5.K.Sadagopal

... Petitioners

Vs.

- 1.The District Collector,
Office of the District Collector,
Sivagangai.
- 2.The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate,
Sivagangai.
- 3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sivagangai Taluk,
Sivagangai District.
- 4.The Tahsildar,
Kaliyarkoil,
Sivagangai District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to Na.Ka.No.C5-14719-2013 dated 31.12.2015 issued by the second respondent and quash the same and consequently direct to grant patta for the lands situated in S.Nos.79/2 and 78 situated in 78, Purasaipatti, Udayarendal Group, Koothakudi Village, Sivagangai Taluk situated in erstwhile Sivagangai Taluk now comprised in Kalayarkovil Taluk, Sivagangai District.

For Petitioner :Mr.R.Senthil Kumar

For Respondents :Mr.S.Kameswaran
Government Advocate

ORDER

The writ petitioners assail an order dated 31.12.2015 of the second respondent by which their request for patta was rejected in respect of Survey Nos.78 and 79/2 situated in 78, Purasaipatti, Udayarendal Group, Koothakudi Village, Sivagangai Taluk.



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2. The petitioners assert that they are the sons of Muniyandi Ambalam. It is further stated that they are permanent residents of Kurunthakulam Village and their ancestors owned Kudivaram in respect of 28 items of property. Learned counsel for the petitioner relies heavily on the order dated 07.04.1958 of the Settlement Officer, Sivagangai. By drawing specific reference to the said order, learned counsel contends that the claim of the petitioners therein for a ryotwari patta was rejected by the Settlement Officer by taking note of and accepting the contentions of the respondents therein, namely, K.R.Muniyandi Ambalam and 14 others. In particular, learned counsel pointed out that the Settlement Officer took note of the documents produced by the respondents therein to conclude that there is proof of existence of Kudivaram. Thus, learned counsel contended that the petitioners are entitled to a patta in respect of Survey Nos.78 and 79/2 also. He further submits that pattas were issued to the petitioners in relation to 25 items of property and the rejection of the request of patta as regards these two items is unsustainable.



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3. He also invited my attention to the FMB Sketches relating to Survey Nos.78 and 79/2 and pointed out that the said FMB Sketches do not disclose the existence of a pathway as erroneously concluded in the impugned order. Furthermore, learned counsel invited my attention to the village accounts relating to the survey numbers and pointed out that these village accounts also reflect the name of one of the petitioners, namely, K.Jeganathan.

4. In response to these contentions, learned Government Advocate invited my attention to the impugned order. He pointed out that the relevant survey numbers are classified as Sarkar punjai (Survey No.78) and Maikal (Survey No.79/2). He also pointed out that it is recorded therein that both the survey numbers are not in the possession or enjoyment of any one for several years. He further pointed out that the properties are under use by the villagers as a pathway and that the petitioners admitted that they are not undertaking any cultivation on the said lands and that only Velikaruvel trees have been planted on the said lands. He concluded his submissions by pointing out that these lands are of large extent and, as recorded in the



impugned order, these lands would be required for public purposes.

5. The sheet anchor of the petitioner's case is the order dated 07.04.1958 of the Settlement Officer, Sivagangai. The said order was pronounced in proceedings instituted by S.P.M.M.Subramania Chettiar and S.P.M.M.S.P.Kannathal Achi, asserting their entitlement to ryotwari patta in respect of 28 items of property. The said proceedings were contested by K.R.Muniyandi Ambalam and 14 others. The Settlement Officer considered the evidence presented by the petitioners as to whether they are duly qualified to be considered Ryots. Upon taking note of the evidence on record, the Settlement Officer concluded that the petitioners had not produced any records to show that they are personally cultivating the lands. On that ground, the request for a ryotwari patta was declined. In course of reaching this conclusion, the Settlement Officer took into account the documents produced by the respondents therein and concluded that those documents evidenced the existence of Kudivaram. The Schedule to the order sets out 28 items of the property. Survey Nos.78 and 79/2 part are referred to therein.



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6. Learned counsel appearing for the petitioners therefore contended that the petitioners are entitled to patta in respect of both Survey Nos.78 and 79/2. In the impugned order, the District Revenue Officer has recorded several findings of fact. The first finding of fact is with regard to classification of Survey No.78 as Government punjai and Survey No.79/2 as Maikal. The second finding of fact is that these lands have not been in possession and enjoyment of any one for several years. The third finding is that the lands are being used as a pathway. The fourth finding is that the lands are not being used for cultivation purposes and that Velikaruvel trees have been planted therein. This last finding is on the basis of a statement made on oath by the petitioners. Learned counsel appearing for the petitioners endeavoured to explain the statement by contending that the lands could not be cultivated over the last three years on account of failure of monsoon.



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7. However, such findings of fact by the second respondent, after conducting a detailed enquiry, cannot be interfered with in proceedings under Article 226 of the Constitution of India which are summary in nature. I find that there is no infirmity in the decision making process of the second respondent and the findings of fact recorded by such process cannot be set aside in this proceeding. Therefore, I decline to interfere with the impugned order in exercise of jurisdiction under Article 226 of the Constitution of India. It will, however, be open to the petitioners to initiate appropriate civil proceedings in respect of such order. If such proceedings are initiated, the matter may be decided uninfluenced by any observations made in this order.

8. Accordingly, W.P(MD).No.4388 of 2016 is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.03.2023

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



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SENTHILKUMAR RAMAMOORTHY, J.

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