IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

W.P.Nos.9675 of 2023 & 6670, 12691 of 2022
AND
W.M.P.Nos.9731, 9732, 9733 of 2023 & 12142, 12145, 6742, 6744 of 2022

W.P.No.9675 of 2023

1.Vijayalakshmi

2.Elavarasi

3.Vimala

4.Jothi .. Petitioners

Vs

1.The Secretary to Government of Tamil Nadu
Revenue Department St. George Fort
Chennai 600 009

2.The District Collector
Dharmapuri District
Dharmapuri

3.The District Revenue Officer
Dharmapuri District, Dharmapuri

4.The Revenue Divisional Officer
Dharmapuri Revenue Sub-Division
Dharmapuri District, Dharmapuri

5.The Tasildar
Dharmapuri Taluk
Dharmapuri District, Dharmapuri

6.The Village Administrative Officer
Nallanahalli Village
Dharmapuri Taluk, Dharmapuri District

7.Abid Basha

8.Parvathy

9.Rajalakshmi

10.Sendurapandian

11.Thirupathy

12.Vimal

13.Iswarya

14.Shanthi

15.Kumaresan .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records in respect of the proceedings in the impugned order in Na.Ka.No.11952/2018/U2 dated 21.12.2021 on the file of the 3rd respondent and quash the same as perverse, illegal, contrary to law and facts and also to the provisions of the Constitution of India.

For Petitioners	:	Mr.C.Uma Shankar
For RR 1 to 6	:	Mr.A.Selvendran Special Government Pleader
For R7	:	Mr.M.Guruprasad
For RR 8 to 15	:	No appearance

W.P.No.6670 of 2022

1.G.Ashok Kumar

2.Peruma .. Petitioners

Vs

1.State of Tamil Nadu
Rep. by Additional Secretary to Government
Fort St. George, Chennai 600 009

2.The District Collector
Dharmapuri District
Dharmapuri

3.The District Revenue Officer
Dharmapuri District, Dharmapuri

4.The Revenue Divisional Officer
Dharmapuri Revenue Sub-Division
Dharmapuri District, Dharmapuri

5.The Tasildar
Dharmapuri Taluk
Dharmapuri District, Dharmapuri

6.The Village Administrative Officer
Nallanahalli Village
Dharmapuri Taluk, Dharmapuri District

7.Abid Basha

8.The Sub Registrar (Joint-II)
Dharmapuri
(R8 impleaded vide order dt.23.2.2023
made in WMP.3930 of 2023) .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records in respect of the proceedings of the 3rd respondent in Na.Ka.No.11952/2018/U2 dated 21.12.2021 and quash the same as perverse, illegal, contrary to law and facts and also to the provisions of the Constitution of India.

For Petitioners	:	Mr.R.Abdul Mubeen
For RR 1 to 6 & 8	:	Mr.A.Selvendran Special Government Pleader
For R7	:	Mr.M.Guruprasad

W.P.No.12691 of 2022

1.Sekar

2.Krishnamoorthi

3.Suresh .. Petitioners

Vs

1.State of Tamil Nadu
Rep. by Chief Secretary to Government
Fort St. George, Chennai 600 009

2.The District Collector
Dharmapuri District
Dharmapuri

3.The District Revenue Officer
Dharmapuri District, Dharmapuri

4.The Revenue Divisional Officer
Dharmapuri Revenue Sub-Division
Dharmapuri District, Dharmapuri

5.The Tasildar
Dharmapuri Taluk
Dharmapuri District, Dharmapuri

6.The Village Administrative Officer
Nallanahalli Village
Dharmapuri Taluk, Dharmapuri District

7.Abid Basha .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records in respect of the proceedings in Na.Ka.No.11952/2018/U2 dated 21.12.2021 passed by the 3rd respondent and quash the same as perverse, illegal, contrary to law and facts and also to the provisions of the Constitution of India.

For Petitioners	:	Mr.T.Sundaranathan
For RR 1 to 6	:	Mr.A.Selvendran Special Government Pleader
For R7	:	Mr.M.Guruprasad

COMMON ORDER

Challenging the proceedings in Na.Ka.No.11952/2018/U2 dated 21.12.2021 issued by the third respondent, these writ petitions have been filed.

2. The brief facts leading to the filing of these writ petitions are as follows:

2.1. The property which is the subject matter of patta proceedings came under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 26 of 1963) and a *suo motu* enquiry was conducted by the Settlement Tahsildar, Salem, as per the said Act.

2.2. Originally, ryotwari patta was issued in favour of the father of the 7th respondent, based on the orders dated 15.06.1981 passed by the Assistant Settlement Tahsildar, Salem and the same was challenged in C.M.A.C.I.A.T.Nos.6/1981 to 10/1981 before the Inam Abolition Tribunal, Krishnagiri (in short "the Tribunal"). The Tribunal, by order dated 05.11.1985, remanded the case to the Assistant Settlement Officer, Dharapuram.

2.3. Therefore, once again, enquiry was conducted by the Assistant Settlement Officer, Dharapuram. On the basis of the evidence adduced before the Assistant Settlement Officer, Dharapuram, by order dated 28.06.1990, patta was issued in favour of one Ramasamy. Challenging this order along with another similar order, the father of the 7th respondent filed C.M.A.(I.A.T.)

Nos.1 and 2/1991 before the Tribunal. The Tribunal, by a common judgment dated 27.04.1998, dismissed the said appeals. Thereafter, it appears that the appeals preferred by the 7th respondent's father in S.T.A.Nos.3 and 4/1999 before this Court, challenging the common judgment of the Tribunal dated 27.04.1998 are pending.

2.4. When the matter stood thus, the 7th respondent gave a representation to the Revenue Divisional Officer on 04.05.2004. The Revenue Divisional Officer, after analysing the various factors, *viz*., patta was originally issued to the 7th respondent's father and subsequently, on remand, in the name of Ramasamy, which was also confirmed on appeal and also pendency of S.T.As.filed thereagainst, rejected the request of the 7th respondent and held that mutation can be effected only subject to the result of the S.T.As. pending on the file of this Court.

2.5. Now, the impugned order has been passed by the District Revenue Officer, Dharmapuri/3rd respondent on 21.12.2021, on a similar representation given by the 7th respondent. The impugned order proceeded as if in the earlier rounds of litigations, the appeals were filed within a period of three months. However, the same was not done. That apart, the 3rd respondent had proceeded as if patta was issued only in the name of the 7th respondent's father in the settlement proceedings and passed the impugned order.

2.6. Questioning the correctness of the impugned order passed by the 3rd respondent, the legal heirs of the deceased Ramasamy and other interested parties have filed these writ petitions.

3. The specific contention of the learned counsel for the writ petitioners is that the impugned order is *ex facie* illegal. After remand, the Assistant Settlement Officer, Dharapuram, by order dated 28.06.1990, issued patta in favour of Ramasamy, which is not in dispute. The said proceedings was challenged by the 7th respondent's father in C.M.A.(I.A.T.) Nos.1 and 2/1991 before the Tribunal, were dismissed. Thereafter, he had also filed appeals before this Court. Therefore, the 3rd respondent's finding that there is no evidence available on record in that aspect, itself is a clear non-application of mind. Hence, it is the contention of the learned counsel that when the S.T.As. said to have been filed are pending before this Court, mutation of records suffers from malice.

4. The learned Special Government Pleader appearing for the official respondents submitted that the 3rd respondent had filed a counter affidavit reiterating that as against the order dated 21.03.1970 passed by the Settlement Tahsildar, Salem, in favour of the 7th respondent's father, Ramasamy had preferred an appeal with a delay of 17 years and the Assistant Settlement Officer, Dharapuram, passed an order on 28.06.1990 in favour of Ramasamy. This counter in fact only supports the case of the 7th respondent.

5. The 5th respondent had also filed a counter affidavit supporting the case of the 7th respondent.

6. I have perused the entire materials available on record.

7. The very nature of the counter affidavit filed by the official respondents itself indicates that in order to support their order, they adopted the tactics in supporting the case of the 7th respondent. This inference is more probable for the simple reason that the remand order and further enquiry by the Assistant Settlement Officer, Dharapuram, is not even disputed by the 7th respondent's father. In fact, appeals were filed by the father of the 7th respondent before the Tribunal in C.M.A.(I.A.T.) Nos.1 and 2/1991. This

fact was also admitted by the 7th respondent in his representation submitted to the Revenue Divisional Officer on 04.05.2004, which is available in the typed set of papers.

8. Pursuant to the impugned order that was passed by the 3rd respondent in favour of the 7th respondent's father, now, a new story has been developed by the 7th respondent, as if the very order of the Assistant Settlement Officer itself is not available on record and it appears to be a result of forgery. It is relevant to note that when the 7th respondent had challenged that order, he had not raised any dispute with regard to the so-called alleged forgery/fabrication. The 7th respondent, after a passage of several years, that too, after the mutation of revenue records, now submits that the order relied upon by the writ petitioners was not passed by the Assistant Settlement Officer.

9. It is relevant to note that when the same order was challenged by the 7th respondent and after he suffered an order against him, now, it is too late in the day for him to raise the plea of forgery/fabrication in these writ petitions. As observed in paragraph 7, *supra*, when the 7th respondent himself has admitted in his representation dated 04.05.2004 that the orders passed by the Assistant Settlement Officer were put to challenge before the Tribunal, and

challenging the orders of the Assistant Settlement Officer, S.T.As. were filed before this Court, now, he cannot take a different stand to contend that the very order of the Assistant Settlement Officer is a result of forgery/fabrication.

10. Whether there is a fabrication or forgery, it has to be proved in the manner known to law. It has to be tested by letting in evidence. Still, if the 7th respondent is of the view that the order passed by the Assistant Settlement Officer which went in favour of Ramasamy, is forged and fabricated, the remedy available to him is to file an appropriate suit to annul the order, by establishing the alleged forgery/fabrication and not by mere submissions before this Court. That apart, certified copies of the orders of the Assistant Settlement Officer are also placed before this Court to dispel the contention of the learned counsel for the 7th respondent.

11. When the settlement proceedings, in fact, were concluded in favour of Ramasamy, as against which, the appeals filed in S.T.As. are pending, the District Revenue Officer, causing mutation of records, even after the same request was made before the Revenue Divisional Officer was rejected, creates a serious doubt about the orders and in fact, makes this Court draw a clear inference that the impugned order is not passed on merits.

12. In the light of the above discussion, I hold that though S.T.As. are said to be in seizin before this Court, no records pertaining to the same are produced before this Court.

13. Such being the position, challenging the revenue records cannot be sustained in the eye of law. Accordingly, the impugned order is quashed. It is also brought to the notice of this Court that after the impugned order came to be passed, patta was issued in favour of the 7th respondent. It is made clear that any mutation of records taken place, will not have any effect, since the very impugned order has been quashed by this Court.

In the result, these writ petitions are allowed. No costs. Connected W.M.P.s are closed.

23.07.2024
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Index : Yes/No
Neutral Citation : Yes/No

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N.SATHISH KUMAR, J.

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