IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE

WA.No.2601/2024 & CMP.No.18633/2024

1.E.Vasantha
2.E.Selvarasu
3.E.RAvindran
4.E.Anbarasu ... Appellants

Vs.

1.The Additional Chief Secretary/
Commissioner of Land Administration,
Chepauk, Chennai 600 005.

2.The District Revenue Officer
Thiruvannamalai District,
Thiruvannamalai.

3.The
Arni Taluk
Thiruvannamalai District. ... Respondents

Prayer : Writ appeal filed under Clause 15 of Letters Patent against the order dated 08.04.2024 in WP.No.9466/2024.

For Appellants	: Mr.C.Prakasam
For Respondents	: Mr.A.Selvendran, Spl.GP

JUDGMENT

[Judgment of the Court was delivered by S.S.SUNDAR, J.,]

(1)This writ appeal is directed against the order of learned Single Judge dated 08.04.2024 dismissing the writ petition in WP.No.9466/2024, filed by the appellants for issuance of a writ of mandamus directing the 3rd respondent to issue patta in respect of land situated in S.Nos.130/3A, 130/3B and 130/3C in Agrapalayam Village, Arani Taluk, Thiruvannamalai District to an extent of 1.52 acres.

(2)Brief facts that are necessary for the disposal of this appeal are as follows:-

(3)The appellants' father by name K.Elumalai purchased land admeasuring an extent of 1.52 acres in S.No.130/3A, 130/3B and 130/3C in Agrapalayam Village by virtue of a registered Sale Deed in the year 2007. After purchasing the property the appellants applied for grant of patta and the same was refused. Therefore, the appellants filed WP.No.9466/2024 seeking for a direction to the 3rd respondent to grant patta in respect of the property in question.

(4)It is seen from the records that the land purchased by the appellants' father originally belonged to the Perumal temple of Agrampalayam holding iruvaram right. Based on the prior Sale Deeds executed in favour of the appellants' predecessors in interest, the Settlement Officer during settlement, found that the appellants' predecessors in interest are entitled to Ryotwari patta subject to paying the Government the amount of consideration, in terms of Section 8[2][1][b] of Tamil Nadu Minor Inam Abolition Act [Act 30/1963]. A reading of the order of Settlement dated 28.03.1968 indicates that the land in respect of which the appellants claim right on the basis of Sale Deed are devadayam iruvaram lands granted in support of Perumal temple of Agrampalayam Village. Though the temple was given patta in respect of land in S.NO.33/2 measuring

8.80 Acres, based on the previous Sale Deeds that were produced before the Settlement Officer, one Chakravarthi Naicker who filed application and who gave statement as PW1 was found to be entitled to Ryotwari patta under Section 8[2][i][b] in respect of lands in S.No.130/3. Therefore, in terms of Section 8[2][i][b] of the Act, the Settlement Officer has directed for issuance of Ryotwari patta to Chakravarthi Naicker subject to payment of consideration to be fixed in terms of Section 8[2][i][b] of the Act 30/1963. Despite this order, there is no document or record to show that the person who was found entitled to Ryotwari patta has paid the consideration as required subject to which the direction was issued for grant of Ryotwari patta.

(5)The Revenue Divisional Officer earlier, vide proceedings dated 17.04.2014, passed an order cancelling patta granted in favour of appellants' father on the ground that there was no proof for remittance of consideration as directed in the order of Settlement in the year 1968. Since the property was held by Settlement Officer as property of temple holding iruvaram right, the Revenue Divisional Officer held against the father of appellants.

(6)When this order was challenged before the Commissioner of Land Administration, the Commissioner vide proceedings dated 02.01.2019 passed the following order:-

The arguments of the appellant and the Assistant Commissioner Hindu Religious and Charitable Endowments Department, Tiruvannamalai and their written statements have been carefully considered. Other connected records have also been verified. Agrapalayam Village in Arni Taluk was taken over by the Government under the provisions of Tamil Nadu Estate [Abolition and Conversion into Ryotwari) Act XXVI of 1948. During the settlement, the S.No.130/3 measuring 1.52 acre was recorded as Inam' 'wet' 'Perumal Koil Poojai' in the Settlement 'A' Register. Thereafter, this minor inam land along with other minor inam lands in S.No.33/3 and 102/3 were taken over by the Government under the Tamil Nadu Minor Inams [Abolition & Conversion into Ryotwari] Act 30 of 1963. The Settlement Tahsildar, Chengalpattu, in his S.R.No.990 to 992/ARE/MMIA/63 dated 28.03.1968, granted patta for the land in S.NO.33/3 measuring 8.80 *acres in favour of perumal temple under Section 11 read with Section 8[2][ii]. Similarly, the Settlement Tahsildar, granted patta for the land in S.No.102/3 measuring 0.48 acres in favour of Tmt.Poongavanamall and S.No.103/3 measuring 1.52 acre in favour of Thiru Chakravarthi Naicker under section 11 read with section 8[2][i][b]. The Settlement Tahsildar in his order has stated that Tmt.Poongavanamall and Thiru Chakravarthi have agreed to pay the consideration amount to the Government. The Settlement Tahsildar directed to issue ryotwari patta to them under Section 11 read with Section 8[2][i][b] for their respective lands subject to their paying to Government the amount of consideration to be fixed under Section 8[2][i][b], by the Tahsildar, Arni. This order of the Settlement Tahsildar is not disputed by the Assistant Commissioner, Hindu - Religious and Charitable Endowments. His contention is that patta was granted with a burden of service condition and consideration amount was not paid by the pattadar. However, there was no recital of any service condition found in the order passed by the Settlement Tahsildar. If any service* *condition is imposed by the Settlement Tahsildar , the order would have been passed under Section 8[5] of the Act 30 of 1963. Instead, the Settlement Tahsildar passed order under Section 8 (2) (I) (b) granting patta in favour of individuals subject to the payment of consideration amount to the Government contemplated under the Act 30 of 1963. It is also seen from the settlement 'A' Register that subsequent to the orders passed by the Settlement Tahsildar, changes were made in the year 1970 itself. A copy of the order was marked to the Assistant Commissioner, Hindu Religious and Charitable Endowments Board, Vellore. According to Section 11(3) of the Act 30 of 1963. if anyone is aggrieved by the decision of the Settlement Tahsildar, appeal can be preferred to the Tribunal within 3 months from the date of the said order. However, no appeal was preferred against the order of the Settlement Tahsildar. The then District Revenue Officer, Tiruvannamalai, who passed the impugned order, was present during the enquiry on 1.11.2018 has admitted that she has not verified the records (Settlement order dated 28.3.1968) before passing the order.*

8. In these circumstances, for the reasons stated above, the order passed by the District Revenue Officer, Tiruvannamalai. in her proceedings first cited is hereby set aside and the appeal is allowed, subject to the condition of the confirmation remittance of consideration amount. The Tahsildar, Arani is directed to verify remittance details in the concerned Sub treasury after the period of 28.3.1968 i.e. the date of issue of orders by the Settlement Tahsildar, Chengalpattu and send report to the Revenue Divisional Officer, Arani and get his consent if the remittance of "consideration amount" is confirmed and ensure title of referred lands are mutated on the petitioner's name and send compliance report through the District Revenue Officer, Tiruvannamalai in 30 days."

(7)Despite the Commissioner of Land Administration directed the Officer concerned to verify remittance details in the Sub Treasury concerned after the order of Settlement Tahsildar, Chengalpattu and send a report to the Revenue Divisional Officer, the respondents could not verify the same. However, the appellants' father submitted a representation on 25.01.2019 for grant of patta without furnishing any documents or details as to remittance of the amount towards consideration as directed earlier by the Settlement Tahsildar and thereafter, by the Commissioner of Land Administration. The Commissioner, Land Administration, vide proceedings dated 03.08.2022 on the representation of the District Revenue Officer, seeking some clarification, held that there is no ground for further clarification.

(8)From the series of communications and orders it is seen that the respondents could never lay their hands to any document to prove payment or remittance by the appellants' father or his predecessor in interest. Since no records were produced, the respondents are not supposed to presume there was payment as directed by the Settlement in the year 1968. Therefore, the representation of the appellants for grant of patta cannot be considered. Even though the learned Single Judge has not taken note of all the sequence of events, as extracted above, the learned Judge has observed that the appellants have not produced any records to show their title to get patta for the property. Since the land has been registered originally as land held by temple, holding iruvaram right, this Court finds no reason to interfere with the order of learned Single Judge.

(9)For the reasons stated above, unless the appellants produce any record to show remittance of consideration, the respondents cannot be directed to grant patta in favour of appellants in respect of the lands especially having regard to the nature of order that was passed in the year 1968 while directing grant of Ryotwari patta in favour of predecessors in interest of appellants.

(10)Hence, the writ appeal stands **dismissed as devoid of merits. However, the appellants can establish their right before competent Civil Court.**

(11)It is also to be noted that the temple is also a necessary party when the appellants seek patta. The fact that the temple is not impleaded as a party in all the representations submitted by the appellants gives an indication that the appellants are now trying to get patta behind the back of the temple concerned who are otherwise entitled to claim right on the basis of original grant. The appellants' predecessors in interest were found entitled to get Ryotwari patta in recognition of their pre-existing right to hold lands subject to the condition prescribed under Section 8[2][i][b] which is mandatory. Therefore, the respondents shall not entertain any other representation of the appellants without impleading the temple concerned in future. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [A.D.M.C., J.]
30.09.2024

AP
Internet : Yes
To
1.The Additional Chief Secretary/
Commissioner of Land Administration,
Chepauk, Chennai 600 005.

2.The District Revenue Officer
Thiruvannamalai District,
Thiruvannamalai.

3.The
Arni Taluk
Thiruvannamalai District.

S.S. SUNDAR, J.,
and
A.D.MARIA CLETE, J.,

AP

WA.No.2601/2024

30.09.2024