WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 05.07.2024

Pronounced on : 11.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.30246 of 2023
and W.M.P.Nos.29846, 34027, 34030, 29843, 34028, 34029 of 2023
19837 of 2024

Kalakshetra Foundation
Represented by its Director
Kalakshetra Road, Thiruvanmiyur
Chennai – 600 041 .. Petitioner

Versus

1.The Revenue Divisional Office
Chennai South, Guindy
Chennai – 600 032

2.The Tahsildar, Velachery Taluk
No.113, V.V.Koil Street
Institute of Road Transport Training Centre Complex
Tharamani 100 Feet Road, Chennai – 600 113

3.The District Collector
62, Rajaji Salai, Chennai – 600 001

4.G.R.Sekar
5.P.Ramani
6.Eby Thomas
(R6 impleaded vide Order dated 11.07.2024 made in
W.M.P.No.32649 of 2023 in W.P.No.30246 of 2023)
.. Respondents

WEB COPY

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent pertaining to the order dated 26.09.2023 passed by the 1st respondent in Proceedings.No.A4/3687/2023 and quash the same.

For Petitioner	: Mr.K.Manoj Menon for Mr.Menon Karthik R.Mukundan Neelakandan
For Respondents	: Mr.P.Sathish for R1 to R3 Additional Government Pleader Mr.K.M.Vijayan, Senior Counsel for M/s.K.M.Vijayan Associates for R4 Mrs.Dakshayini Reddy, Senior Counsel for Mr.S.Nedunchezhiyan for R5 Mr.A.K.Sriram, Senior Counsel for Mr.V.R.Mukundakumar for R6

ORDER

This writ petition has been filed challenging the order dated 26.09.2023 passed by the 1st respondent in Proceedings.No.A4/3687/2023 and quash the same.

2. Since, a sale agreement is executed by the respondents 4 and 5 in favour of the impleading petitioner in W.M.P.No.32649 of 2023, this Court is of the view that the impleading petitioner is necessary for proper adjudication of this writ petition. Hence, the impleading petition is ordered, accordingly.

WEB COPY

3. It is the case of the writ petitioner that the the petitioner, Kalakshetra Foundation was established in the year 1936 by Smt.Rukmini Devi Arundale. It was established for the purpose of promoting and imparting training and education in various forms of traditional art and culture. During 1940 to 1960, about 100 acres of land in Thiruvanmiyur Village was acquired by the petitioner and they are in continuous and uninterrupted possession and enjoyment of the petitioner for more than 70 years. The lands have been acquired by the petitioner either through purchasing from the owners or through acquisition proceedings initiated by the Government of Tamil Nadu. On demise of the original founder, Kalkshetra Foundation Act, 1993 was enacted. All the assets and properties of Kalakshetra Foundation, Besant Cenetary Trust in the city of Madras (Chennai) including Besant Theosophical School stood vested in and transferred to Central Government.

4. When the matter stood thus, in and around 22.01.2014, the respondents 4 and 5 filed an application for issue of patta in respect of the property comprised in Paimash No.967C and 968D measuring 0.1.2 kani and 1.15.6 kani respectively, measuring in total 2.0.8 kani situated at Thiruvanmiyur Village allegedly purchased by their father Shri Ramachandra

WEB COPY

Mudaliar from one Shri Rasu Gramani vide Sale deed dated 07.12.1945 regsistered as Doc.No.1016 of 1946. After the death of their father on 07.04.1992, the respondents 4 and 5 claiming to be the legal heirs of the said Ramachandra Mudaliarapproached the authorities for issuance of patta in Paimash No.967C and 968D. According to them, the said Paimash numbers correlates to Survey No.165/3.

5. The impugned order dated 26.09.3023 is passed not only directing the inclusion of the respondents 4 and 5 in the patta as joint holder of the petitioner's property, but also, adjudicated title claimed by the respondents 4 and 5. It is the contention of the petitioner that respondents 4 and 5 in various documents executed by themselves namely Partition Deed, Power of Attorney have given different boundaries.

6. It is the contention of the petitioner that the Paimash Nos.967C and 968D have been acquired by the Government of Tamil Nadu on behalf of the petitioner, which culminated in an Award No.11/1961 dated 23.10.1961. The said Paimash Nos.967C and 968D correlate to S.Nos.173/1A, 173/1B and 173/2B and not to S.No.165/3. The respondents 4 and 5 also filed a suit in

https://www.mhc.tn.gov.in/judis

WEB COPY

O.S.No.5893 of 2013 in respect of Paimash Nos.967C and 968D in which they contended that the said property correlates to Survey Nos.172/3 and 172/4. Without considering all these facts merely on the basis of the application under the pretext of enquiry, the impugned order came to be passed. Wherein, the first respondent has ordered inclusion of the respondents 4 and 5 as Joint Pattadharars and also directed the 2nd respondent to measure and demarcate the properties of the petitioner. Hence, this writ petition is filed challenging the impugned order on the ground that first respondent exceeded jurisdiction conferred by law and decided on the properties of the Central Government under the Tamil Nadu Patta Passbook Act, 1983.

7. Further, the respondents 4 and 5 have admittedly never been in possession of the property and they are not even aware of the boundaries, location or extent of property for which they applied for patta and their application was only based on assumptions and speculations. Hence, it is the contention of the petitioner that the impugned order cannot be sustained in the eye of law. The first respondent decided the rights of the parties when the respondents 4 and 5 were never been in possession of the property from 1957

https://www.mhc.tn.gov.in/judis

onwards.

WEB COPY

8. Counter has been filed by the first respondent, wherein, it is the contention of the first respondent that Paimash Nos.967C and 968D have been acquired by the Government of Tamil Nadu on behalf of the petitioner, which culminated in an Award No.11/1961 dated 23.10.1961. However, the petitioner pointed out that the properties in Paimash Nos.967C and 968D correlate to S.Nos.173/1A, 173/1B and 173/2B and not to S.No.165/3. The application of the respondents 4 and 5 were referred to the second respondent. The second respondent referred the same to the first respondent, who, in turn issued notice on 31.07.2023 to the petitioner to attend enquiry on 03.08.2023. On 09.08.2023, the petitioner appeared and submitted additional written submissions and documents stating that the respondents 4 and 5 are not in possession of the property claimed by them, namely in S.No.165/3 or in Paimash Nos.967C and 968D. The second respondent inspected the petitioner's land including land in S.No.165/3, after enquiry the first respondent passed the impugned order whereby the first respondent has ordered the inclusion of the names of the respondents 4 and 5 in the patta as joint pattadars and also directed the 2nd respondent to measure and demarcate

WEB COPY

the properties of the petitioner and further ordered to subdivide the property in S.No.165/3 and demarcate the road in the name of Corporation of Chennai. It is also the contention that the Paimash Nos.967C and 968D have been combined together and later divided into three parts to identify their survey numbers and the extent comprised in those survey numbers which has been clearly stated in the impugned order. Hence, opposed the writ petition.

9. The Fourth respondent has filed a counter. It is the contention of the fourth respondent that his father Ramachandra Mudaliar has purchased a property in Doc.No.1016/46 dated 09.04.1946 in respect of property in Paimash No.967C and 968D measuring 0.1.2 kani and 1.15.6 kani respectively, measuring in total 2.0.8 kani situated at Thiruvanmiyur Village. The patta was already granted in the name of his father in Patta No.80. The property in Paimash Number 967C is not connected with the subject property nor a dispute connected with the writ petition. The impugned order pertaining to Patta is only relating to the property in Paimash Number 968D, New Survey No.165/3 not relate to Paimash Number 967C. The partition deed executed by the respondents 4 and 5 dated 12.12.2008 registered in Doc.No.7648/2008, the Power of Attorney dated 31.12.2008 registered as

Doc.No.18/2009 executed by the 5th respondent in favour of the 4th respondent and the sale agreements dated 29.01.2009 registered as Doc.Nos.361/2009 and 362/2009 in favour of a third party were all executed only in respect of the property comprised in Paimash Number 967, Thiruvanmiyur Village, the Civil Suit in O.S.No.5893/2013 and other litigations also pertains to Paimash No.967 alone and it is not al all connected to Paimash No.968D or Survey No.165/3 as such no inference of the said suits can be made in the writ petition. After the death of the petitioner's father, the respondents 4 and 5 traced back the properties belonging to their family and only thereafter they started making claims to the appropriate authority for name change in patta in respect of the property owned by their father.

10. It is the contention that the Central Government has also directed the petitioner foundation vide letter dated 29.10.2021 to handover the possession to the respondents 4 and 5 after assessment of revenue records and records of ownership. After detailed enquiry, the District Survey Office, Chennai by their letter dated 12.01.2018 submitted a report to the District Collector correlating the Paimash No.968/D as Survey No.165/3 based on the

WEB COPY

WEB COPY

records of the classification register of Thiruvanmiyur revenue district. The petitioner presented only the award in land acquisition proceedings in Award No.11 of 1961 dated 23.10.1961. Either Paimash No.968/D or Survey No.165/3 is not found in the Award above. The petitioner has not produced any document in proof of their claim of ownership in respect of Survey No.165/3 in enquiry. Hence, according to them, detailed enquiry was conducted on the basis of revenue records and the order has been passed. The fifth respondent also filed a counter, almost repeated the contentions of the fourth respondent and opposed the writ petition.

11. It is the contention of the impleading respondent that he is an agreement holder in respect of a property admeasuring an extent of 2.64 acres, Thiruvanmiyur Village in Pymash Nos.967C and 968D. The sale agreement was registered in Doc.Nos.361 and 362 of 2009 in Saidapet, SRO. The respondents 4 and 5 have handed over all the documents including the parent document. It is also stated by the respondents 4 and 5 that possession is not with them and illegally occupied by some third parties. The respondents 4 and 5 have created various documents in their favour and in process of deriving title to the property, they had created a sale deed dated

https://www.mhc.tn.gov.in/judis

WEB COPY

14.07.1991 alleged to have been executed by Ramanatha Iyer in favour of one Mr.K.K.Srinivasa Pillai, Thereafter, to give more strength to the above documents, another document by way of will was created alleged to have been executed in Bombay, SRO by bequeathing entire properties belonging to KK Srinivasa Pillai in favor of blood relation Mr.K.G.Srinivasan vide Doc.No.3466/1950 dated 16.07.1950. This is followed by some original documents such as death certificate of Mr.K.G.Srinivasan and Legal heirship certificates. During the sale agreement, the respondents 4 and 5, the property was under construction of multi-storied flats being developed by M/s.KG Builders in the name of KG Eternity. The respondents 4 and 5 had already filed a suit against Mr.Venkatasubramaniam and others and against the KG Builders in O.S.No.5893/2013 before the XVth Assistant City Civil Court, Chennai, wherein, it is contended that property comprised in Paimash Nos.967C and 968D corelates to S.Nos.172/3 and 172/4. According to the impleaded respondent, now the petitioner is claiming right over the different S.No.165/3 after handing over the original title deeds to the impleaded respondent. The respondents 4 and 5 have already obtained a Non Traceable Certificate as if they have lost their parent document and executed a General Power of Attorney dated 20.04.2022 in favour of M/s.Ashok Krishna

WEB COPY

Associates represented by its partner Mr.S.Gopalakrishnan. It is the contention that Paimash Nos.967C and 968D corelates to S.Nos.172/3 and 172/4 and not in respect of S.No.165/3.

12. The learned counsel appearing for the petitioner submitted that first respondent has decided titles in favour of the respondents 4 and 5. The respondents 4 and 5 were never been in possession of the property. All the properties were either purchased or acquired in favour of the petitioner in the years 1957 and 1961. Award is also passed in this regard. Several survey numbers are also found place in the award. Therefore, when the respondents 4 and 5 have no right whatsoever in respect of the property, now the claim has been made only from the year 2014, that too, after the death of the respondents 4 and 5's father. Based on that application, the first respondent has passed the impugned order declaring the title of the respondents 4 and 5. According to learned counsel, all the assets and properties were either purchased or acquired in favour of the petitioner and stood vested and transferred to Central Government as per Section 4 of the Kalakshetra Foundation Act, 1993.

https://www.mhc.tn.gov.in/judis

13. Further, it is the contention that the respondents 4 and 5 somehow or other with the connivance of revenue officials are trying to create a document in respect of properties which is under the control of petitioner foundation for several years. Admittedly, the respondents 4 and 5 were never in possession of the property at any point of time. The suit filed in O.S.No.5896/2013, it was specifically contended by the respondents 4 and 5 that the Paimash referred above relates to S.Nos.172/3 and 172/4, however, several documents have been executed between the respondents 4 and 5 and third parties, different survey numbers have been given in respect of the subject property. These facts clearly indicate that the very identity and location of the property has not been established. The identity and location itself is not known to the respondents 4 and 5. Therefore, with the connivance of the revenue officials, now an attempt has been made to create a title. Whereas, the award of the year 1961 in the land acquisition proceedings clearly show that Paimash Nos.967C and 967D were already acquired by the Government of Tamil Nadu for the benefits of the petitioner foundation. That apart, the petitioner foundation has already purchased the properties measuring 18 acres in Paimash Nos.967, 968, 968C, 970B, 970D, 971B, 976A, 976B and 979A vide Doc.No.475 of 1975. The entire property is

WEB COPY

WEB COPY

already earmarked and bounded by fencing and the properties are well guarded and it is under the control of petitioner's foundation and all the properties vest with the Central Government. Therefore, the revenue officials invoking the Tamil Nadu Patta Pass Book Act, 1983 will not arise at all. When the authorities have no jurisdiction to entertain the application and issue patta to the lands belonging the Central Government, this writ petition is maintainable.

14. Whereas, the learned counsel for the respondents 4 and 5 submitted the writ petition is not maintainable, since, as against the Tamil Nadu Patta Pass Book Act, 1983, revision is available. That apart though the respondents 4 and 5 are not in a possession of the properties, the impugned order only declares the correct survey number and inclusion of the names of the respondents 4 and 5 in the revenue records. Hence, it is the contention that mere correlation is done by the officials on the basis of revenue records, the order impugned cannot be set aside. It is the further contention that the subject property is not vested with the Central Government and not listed in the second schedule of the Gazzette notification. Therefore, the contention that the property belong to the Central Government has no legs to stand.

WEB COPY

15. Mrs.Dakshayini Reddy, learned Senior Counsel would contend that mere correlating survey number and inclusion of the name of the respondents 4 and 5 done in revenue proceedings, title has not been decided by the authorities. Therefore, it is the contention that mere making corrected entry in the revenue record, such order cannot be questioned in this writ petition. The petitioner ought to have filed a revision and not a writ petition.

16. Mr.A.K.Sriram, learned Senior Counsel appearing for the impleaded respondent submitted that respondents 4 and 5 have taken a different stand in different manner. While executing a sale agreement in favour of the impleaded respondent, different survey number was given. Similarly, various documents executed by them including suit filed them, different survey numbers were given. It is the specific contention that the suit property correlates to S.Nos.172/3 and 172/4, whereas, for the first time before the revenue authorities, stand has been taken as if it corelates to S.No.165/3.

17. Heard both sides and perused the materials placed on record.

https://www.mhc.tn.gov.in/judis

WEB COPY

18. From the submissions made before this Court and also on the revenue records, the fact remains that the respondents 4 and 5 claim right on the basis of purchase by made their father in the year 1946. The sale deed available in the typedset of papers shows that Paimash No.967C and 968D measuring 0.1.2 kani and 1.15.6 kani respectively, measuring in total 2.0.8 kani situated at Thiruvanmiyur Village is purchased by the petitioner's father on the specific boundaries, this is the base for claiming the right. The boundaries in original sale deed were given as follows:

North to the Punjai land of Nanjundarao Punjai
East to the Pattai,
South to the Punjai land of Pamban Kumaraguru Swamigal
and West to the vendor's land namely Raju Gramani.

19. Though the property has been purchased by the father of the respondents 4 and 5, the fact remains that possession over the property never been exercised by the respondents 4 and 5. Only after the death of their father, in the year 1992, the respondents 4 and 5 have entered into some partition deed, wherein, it is specifically recorded by the respondents 4 and 5 that Paimash No.967 relates to Survey No.172/3 and total extent is 1 are 36 cents. The boundaries in the partition deed indicate as follows:

https://www.mhc.tn.gov.in/judis

WEB COPY

North is Pattai
East is Seenivasa Pillai's land
South is Kalakshetra land
and West is Pamban Kumaraguru Swami Samadhi

20. Thereafter, a General Power of Attorney deed was executed by the fifth respondent in favour of the M/s.Ashok Krishna Associates represented by its partner Mr.S.Gopalakrishnan, which is also available in the typedset of papers, wherein, it is referred as if Paimash No. 968D relates to 165/3 and the boundaries shown as follows with an extent of 2 acres 61 cents which is said to have been purchased in the earlier sale deed of the year 1946.

North by	*: Nanjunda Rao Punja land by Old Survey No.165/Part*
South by	*: Pamban Kumaraguru Desa Swamigal Punja land by Old Survey No.174*
East by	*: Paattai Old Survey No.173 & 172/Part*
West by	*: Punjai land by Old Survey No.114*

21. The boundaries description in all the three documents is totally contradictory with each other. It does not deal with the original document of the year 1946. Of course, this Court is not decided the title. All these facts clearly shows that the only the respondents 4 and 5 are not in a position to locate and identify the lands. The possession is also not with them. Only the

WEB COPY

documents have been created to make a claim. The settlement register dated 07.05.1960 shows that the S.Nos.158/11, 167, 173/2, 178/2, 179/2, 181/1, 182/2, 183/3, 165/3 stand in the name of the petitioner foundation. The land acquisition proceedings initiated by the Government for acquiring the lands for the foundation also culminated into an Award in Award No.11/1961 dated 23.10.1961, wherein, Old Paimash No. 967/C and 967/D, a total extent of 3 acres 6 cents have been acquired for the petitioner foundation. The Survey Number given are 173/1A, 173/1B and 173/2B. The notification issued by the Government of Tamil Nadu for acquisition indicate that Paimash No. 967/C and 967/D owned by Minors Parvathy and Muthukumarasamy by Guardian U.Srinivasan and Vallinayam and Syed Alikhan in total 3 acres 6 cents, from whom the lands have been acquired in the year 1961.

22. The impugned order records as if, there is no evidence to show that Paimash No. 967/C and 967/D were acquired by the Government of Tamil Nadu measuring to an extent of 2.61 acres which is contrary to the very findings recorded in the Gazette placed before me. In fact, in Paimash No. 967/C and 967/D , the total extent of 3 acres 6 cents were acquired by the Government. The respondents 4 and 5 themselves had referred New Survey

WEB COPY

No.172/3 in the Partition Deed and not 165/3. Further suit is also filed by them citing different survey number. That apart, they were never in the possession of the property all these days. Without establishing the title in the appropriate manner, they cannot approach the revenue authorities to declare the title. The very impugned order on entirety would indicate that the first respondent has passed the order, in fact, declaring the title of the parties. When the persons are not in possession of the properties for several decades and including their name in the revenue records and ordering sub-division and demarcation of the boundaries, in fact, will have an effect of deciding the title.

23. Even assuming that the respondents 4 and 5 have any title in the property, by passage of time, they were excluded from the property for several decades, therefore, their rights will automatically gets extinguished. It is not the case that the foundation has encroached upon the property and in possession, in fact, lands were acquired either through purchase or acquisition initiated by the Government of Tamil Nadu. The petitioner foundation has purchased the property in the year 1961, that apart, acquisition is also initiated by the Government of Tamil Nadu in the year

WEB COPY

1961 and award has been passed. All these days, the entire area is under possession of the foundation. Therefore, revenue authorities entertaining such application and interpreting the award passed by the Government of Tamil Nadu by holding that there is no evidence to show that Paimash No.968D has been acquired indicate that the order has been passed for some extraneous consideration.

24. It is also relevant to record certain facts. The respondents 4 and 5 filed a suit in O.S.No.5893 of 2013 to declare the decree passed in O.S.No.14133 of 1996 dated 20.10.2006 as null and void and not binding upon them. In the earlier suit filed by the petitioner against the third parties, it is their specific case that Paimash No. 967C and 968D relates to 172/3 and 172/4. As pointed out various documents executed by the respondents 4 and 5 the boundaries and survey numbers contradictory to each other, the location and identity of the property has not been established for several decades and the property is in possession of the foundation. Therefore, without establishing their right before the Civil Court approaching the revenue authorities after several decades and executing several documents later, i.e., the agreement to third parties and Power of Attorney etc., makes it clear that

https://www.mhc.tn.gov.in/judis

WEB COPY

it is just a clear attempt to revive their alleged right in the immovable properties which were never under the control of the respondents 4 and 5 at any point of time.

25. It is relevant to extract Sections 4 and 5 of the Kalakshetra Foundation Act, 1993 as follows:

> *"4.Transfer to, and vesting in, the Central Government of the assets and properties of Kalakshetra.—On the commencement of this Act, the right, title and interest in relation to the assets and properties of Kalakshetra specified in the Second Schedule and vested in the Board of Trustees or any other body, in whatever capacity, shall Stand transferred to, and vest in, the Central Government.*
>
> *5. General effect of vesting.—(1) The right, title and interest vested in the Central Government under section 4 shall be deemed to include all the assets, rights, leaseholds, powers, authorities, licences and privileges; all property (movable and immovable) including lands and buildings; musical instruments; equipments used in teaching, training and staging of performing arts; tools and facilities used in arts and crafts; costumes and decorative items; books; stationery, furniture and other equipments used in libraries and laboratories; works of art and artefacts; stores, automobiles and other vehicles; workshops;*

https://www.mhc.tn.gov.in/judis

WEB COPY

cash balances, funds including reserve funds, investments and all other rights and interests arising out of such assets and properties as were immediately before the commencement of this Act in the possession ownership, power or control of the Board of Trustees or any other body, in whatever capacity, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(2) All assets and properties as aforesaid which have vested in the Central Government under section 4 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them or of any attachment, injunction, decree or order of any court or other authority restricting the use of such assets or properties in any manner, or appointing any receiver in respect of the whole or any part of such assets and properties shall be deemed to have been withdrawn.

(3) Any licence, permission, authority, concession, facility, privilege, affiliation or any other instrument of similar nature granted to the Board of Trustees or any other body, in whatever capacity, in relation to the assets and properties of Kalakshetra or any of its constituent units which has vested in the Central Government under section 4, at any time before the commencement of this Act and in force immediately before such commencement, shall continue to be in force on and after such commencement in accordance with its tenor in relation to, and for purposes of, such assets and properties, or where the

WEB COPY

direction under section 6 has been issued, the Foundation shall be deemed to be substituted in such licence, permission, authority, concession, facility, privilege affiliation or other instrument, as if it had been granted to the Foundation and the Foundation shall hold it for the remainder of the period for which the Board of Trustees or any other body, in whatever capacity, would have held it under the terms thereof.

(4) If, on the commencement of this Act, any suit, appeal or other proceeding of whatever nature in relation to any assets or properties which have vested in the Central Government under section 4, instituted or preferred by the Board of Trustees is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of such transfer and vesting, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, by the Central Government or where the right, title and interest in relation to such assets and properties are directed under section 6 to vest in the Foundation, by the Foundation."

26. The above provisions makes it very clear that even the property not found in the Second Schedule which was in possession or under the control of Board of Trustees or any other body, in whatever capacity, immediately before the commencement of the Act, shall stand transferred to the Central Government. Such view of the matter, when the respondents 4 and 5 are no

longer in possession for many decades and the revenue authorities entertaining the application to decide the title cannot be sustained in the eye of law.

27. It is apt to point out that the Hon'ble Apex Court in the case of *Edelweiss Asset Construction Company Limited Vs. R.Perumalswamy and others* reported in *(2021) 11 SCC 98* has held as follows:

> *18. The Tamil Nadu Patta Pass Book Rules 1987 provide for the procedure to be adopted to deal with enquiries with respect to the entries made in the patta pass book. Rule 4 provides for the procedure on recipient of an application or information with respect to an entry in the patta pass book. The relevant portion of Rule 4 provides thus:*
>
> *“4. Procedure on receipt of application or information. - (1) On receipt of the application or information, the Tahsildar shall make an entry in the "Register of Applications Received" in the order of receipt in Form III. The Register shall be maintained village-wise.*
>
> *(2) On the basis of the information furnished in the application and as available in the existing land records or obtained otherwise, the Tahsildar shall cause to be served or despatched, under certificate of posting, to the persons having*

WEB COPY

WEB COPY

interest on the land a notice in Form IV calling upon them to make representation either orally, or in writing at a specific place on a specified date which shall be not less than fifteen days and forty days later than the date of receipt of the application or information.

(3) On the prescribed date, the Tahsildar shall conduct a summary enquiry. At the enquiry, on consideration of age, literacy and occupation, the Tahsildar may permit an authorised agent of the owner to appear on his behalf to supplement whatever the owner has to state orally or in writing. No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry. There shall not be adjournment of the enquiry not more than twice and that adjournment shall be granted only on application made by the parties requesting for adjournment. Reasons for granting or refusing the adjournment shall be recorded by the Tahsildar in writing.

(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records."

WEB COPY

(Emphasis supplied)

In terms of Rule 4(4), the Tahsildar upon being satisfied that a dispute concerning the ownership of patta is already pending in a court or any issue that is raised before him impinges on personal or laws of succession shall direct the concerned parties to obtain an "order of ownership" from a competent civil court having jurisdiction and accordingly change the entries recorded in various revenue records.

19. Under the Tamil Nadu Patta Pass Book Act, 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a 'title dispute'. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication."

28. Even the above also makes it clear that as far as the Tamil Nadu Patta Pass Book Act, 1983 is concerned, only the Tahsildar has to decide relating to the entries. However, in this case, the Revenue Divisional Officer has passed the order. In this regard, paragraph 21 of the above referred judgment of the Hon'ble Apex Court reads as follows:

https://www.mhc.tn.gov.in/judis

WEB COPY

"21 The narration of facts in the earlier part of the judgment makes it clear that on 26 February 1964, the State of Tamil Nadu executed a deed of assignment in favour of WSIL. The deed of assignment specifically records that the lands vested in the State of Tamil Nadu free of all encumbrances and were allotted to WSIL. The entire case of the first respondent, was founded on an alleged sale deed of 9 October 1929, under which his father acquired the land and an alleged oral lease, by which the land was leased in favour of WSIL in 1963. Neither the sale deed nor the terms of the alleged oral lease have been produced in the course of the proceedings. Once the lands were acquired by the State of Tamil Nadu, any pre-existing claim of the first respondent would stand extinguished. The purpose of the Government Order dated 17 August 2004, is to enable the DRO to rectify the defects in the land registry. The DRO exceeded his jurisdiction by engaging in an exercise of investigating the title to the disputed land and substituting the first respondent with the appellant in the land records. The learned Single Judge was correct in holding that the DRO in the guise of acting in accordance with the said Government Order, wrongly adjudicated upon the question of title which was beyond jurisdiction."

29. Even, the first respondent has no power as per the Government Order dated 17 August 2004 to rectify the defects in the land registry. The first respondent has no right to go into the title issue, he ought to have

WEB COPY

relegated the parties to the Civil Court. Further, the power of the revenue authorities is normally to consider the prima facie case for entitlement of the patta, however, when there is a serious dispute with regard to the title, the authorities should relegate the parties to the Civil Court for adjudication of rights. Instead the authorities acting as a Civil Court and deciding the title without any evidence and proof of any document, such order deciding the title of parties cannot be sustained in the eye of law. Title of any person has to be established in the manner known to law which require proper pleadings and evidence. Unless these things are satisfied, merely, on the basis of some applications, the title issue cannot be decided.

30.Accordingly this Court is of the view that the impugned order cannot be sustained in the eye of law and the same stands quashed. It is for the respondents 4 to 6 to establish their rights in the manner known to law.

31. In view of the above, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

11.07.2024

https://www.mhc.tn.gov.in/judis

WEB COPY

dhk
Neutral Citation : Yes/No

N.SATHISH KUMAR, J.

dhk

To

1.The Revenue Divisional Office
Chennai South, Guindy
Chennai – 600 032

2.The Tahsildar
No.113, V.V.Koil Street
Institute of Road Transport Training Centre Complex
Tharamani 100 Feet Road, Chennai – 600 113

3.The District Collector
62, Rajaji Salai, Chennai – 600 001

W.P.No.30246 of 2023

11.07.2024

https://www.mhc.tn.gov.in/judis