



W.P.(MD)No.11693 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 17.04.2024

DELIVERED ON : .08.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.11693 of 2021

and

W.M.P.(MD)No.9198 of 2021

1.K.Maimegalai
2.K.Rajkumar
3.K.Vignesh

... Petitioners

Vs.

- 1.The Principal Secretary/
Commissioner of Land Administration(FAC),
Commissionerate of Land Administration (CLA),
Land Administration Department,
2nd Floor, Ezhilagam, Chepauk,
Chennai.
- 2.The Director of Survey and Settlement,
PWD Estate, Chepauk,
Triplicane, Chennai.
- 3.The District Revenue Officer,
Sivagangai,
Sivagangai District.



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4.The Tahsildhar,
Devakottai,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records relating to the impugned proceedings in Proc.No.K1/9779/08, dated 04.05.2021 issued by the first respondent and quash the same as illegal.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

The Writ Petition is directed against the order passed by the first respondent, cancelling the proceedings of the Assistant Settlement Officer, Madurai, dated 10.01.1996.

2. The case of the petitioner is that the land in S.No.10/6-2, Block 6, Ward J of Devakottai Town (T.S.No.24) measuring 2114 sqft in Udhayachi Village of Devakottai Taluk earlier, originally belonged to



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K.Veerabarpillai ancestrally, that he had put up a house therein 80 years back and was enjoying the said lands and house peacefully, that after the death of the said Veerabarpillai, his sons Balasubramaniam, Shanmugam, Murugan @ Murugesan and Paramasivam had partitioned the property among themselves, vide registered partition deed dated 30.04.1977 and the land in dispute was allotted to the share of Murugan @ Murugesan, who in turn executed an Inam settlement deed dated 23.04.1979 in favour of his wife Irulayee, that the said Irulayee sold the said property to one Subramaniam Chettiar and his wife Kamala vide sale deed dated 05.05.1986, that the said Subramaniam Chettiar and his wife kamala sold the said property to the first petitioner vide sale deed dated 20.04.1988 and after the purchase, the first petitioner has mutated the revenue records in her name and also obtained patta for the same, that the first petitiner had then executed an Inam settlement deed dated 26.09.2007 in favour of her husband and that her husband died on 04.02.2020 leaving behind the petitioners as his legal heirs.

3. The petitioners' further case is that they have found that though the property purchased and under enjoyment was more, an extent of 562



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sqft on the southern side of their house site was left in patta, that the first petitioner has then approached the competent authority for issuance of patta for that 562 sqft, that the competent authority, after due enquiry granted patta for the said extent also, vide proceedings dated 10.01.1996 and thereafter, the petitioners have been in continuous possession and enjoyment without any disturbance or interruption till now, that the third respondent has sent a letter dated 21.01.2008 to the first petitioner stating that while reviewing the file of Assistant Settlement Officer granting patta for the said 562 sqft, they have found that the said mutation has been done wrongly and hence, called upon the first petitioner to explain as to why the same should not be cancelled, that the first petitioner immediately gave a reply narrating all the facts, that thereafter nothing was heard from the third respondent, but to the petitioners' shock and surprise, they have received the proceedings dated 04.05.2021 of the first respondent, that the patta issued by the Assistant Settlement Officer in 1996 was suo motu cancelled by the first respondent and that therefore, the petitioners with no other option, were constrained to approach this Court for challenging the proceedings of the first respondent dated 04.05.2021.



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4. The main contention of the petitioners is that the impugned order came to be passed after a lapse of 25 years since the order of Assistant Settlement Officer, Madurai, that the petitioners were not given any notice prior to passing of the impugned order, that the first respondent has no jurisdiction or powers to review suo motu, when appeal remedy is specifically provided and that therefore, the impugned order which is legally unsustainable, is liable to be quashed.

5. It is evident from the records that at the time of admission, this Court has granted an ad-interim stay of all the further proceedings and operation of the impugned proceedings dated 04.05.2021 issued by the first respondent.

6. The defence of the respondents is that the Settlement Officer who has issued the proceedings dated 10.01.1996 has absolutely no right or power to issue any patta in favour of the petitioners in respect of the above said property, that the Assistant Settlement Officer, Madurai, without conducting any prior field inspection or inspection and without



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getting the report from the Village Administrative Officer, has issued the patta to the petitioners on 10.01.1996 in a fraudulent manner for his illegal enrichment, that the said Assistant Settlement Officer – Muthukrishnan has issued so many fraudulent pattas without following due procedures in Kalanivasal, O.Siruvayal area of Karaikudi and Udayachi Village in Devakottai Taluk, that the said lands were classified as Government Punja lands and as such, the said Assistant Settlement Officer has no right to issue patta in favour of anyone, that the third respondent office, after coming to know about the fraudulent issuance of pattas, has initiated an enquiry and after thorough enquiry on the fraudulent pattas issued to various persons including the writ petitioners and after issuance of show cause notice and conducting necessary procedures as contemplated under the Tamil Nadu Estate (Abolition and Conversion) into Ryotwari Act, 1948, cancelled the fraudulent pattas issued by the Assistant Settlement Officer – Muthukrishnan, that the first respondent is the competent authority to cancel the orders passed by the Assistant Settlement Officer by exercising powers conferred on him, suo motu under Section 15(c) of the Tamil Nadu Estate (Abolition and Conversion) into Ryotwari Act, 1948 and the said power was given to



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the first respondent vide G.O.Ms.No.714, Commercial Tax and Religious Endowment Department, dated 29.06.1987 and that the suo motu power of cancellation of assigned patta was affirmed by the Division Bench of this Court in the case of Special Commissioner and Director of Survey and Settlement Vs. M.Arumugam.

7. It is the further case of the respondents that the first respondent has rightly exercised his power under the above said Act and by strictly following the procedures and as such, there is no question of any violation of principles of natural justice, that the pattas obtained by similarly placed persons like the writ petitioners, were also cancelled, after due enquiry and in accordance with law, that the said cancellation was challenged by some persons in W.P.(MD)No.1702 of 2006 and batch of writ petitions and the same were dismissed on 24.09.2008 and they have preferred appeals in W.A.(MD)No.618 of 2009 and batch and the same were also dismissed by the Division Bench on 24.03.2021 by confirming the order cancelling the fraudulent pattas passed by the first respondent, that the revenue authorities, after cancellation of the said pattas, have duly mutated the classification of the said lands as



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Government vacant lands and that since an order of interim stay was in force, the respondent officials are unable to proceed further.

8. No doubt, though the petitioners were claiming ownership over an extent of 2114 sqft of land in S.No.10/6-2 in T.S.No.24 of Udayachi Village, Devakottia Taluk, the dispute is only with respect to 562 sqft, for which the proceedings came to be issued by the Assistant Settlement Officer, Madurai dated 10.01.1996 and the consequent patta issued to the first petitioner for the said land. It is the specific case of the respondents that the said extent of 562 sqft is Government punja land, but the Assistant Settlement Officer – Muthukrishnan has issued so many fraudulent pattas to several persons including the first petitioner for the said extent of 562 sqft.

9. Regarding the contention of the petitioners that they were not given any notice nor any opportunity of being heard before ever passing the impugned order, even according to the petitioners, the third respondent has issued a memorandum dated 21.01.2008 informing them about the orders passed by the Assistant Settlement Officer, Madurai,



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without following due procedures and without jurisdiction, directed the first petitioner to show cause as to why the said order of the Assistant Settlement Officer should not be cancelled. According to the petitioners, they have submitted a reply narrating all the facts, that the said property including 562 sqft was and is in possession and enjoyment of their family and predecessors in title and that patta was given to them after due enquiry.

10. As rightly contended by the learned Counsel for the respondents, the first respondent has referred about the representation of the third respondent. It is the specific case of the respondents that the land in dispute was originally classified as Sarkar Punjai and that the said factum was not at all disputed or denied specifically by the petitioners. As already pointed out, even according to the petitioners, originally patta was not given with respect to 562 sqft of land and by alleging that they were in enjoyment of more extent, approached the authority seeking patta for the said 562 sqft of land.



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11. The learned Special Government Pleader appearing for the respondents would contend that the Assistant Settlement Officer is the appellate authority for the orders passed by the Special Tahsildar, Natham Settlement Scheme and that the Assistant Settlement Officer, Muthukrishnan had usurped the powers of the Special Tahsildar and granted patta on his own. It is not the case of the petitioners that they have approached the Assistant Settlement Officer, challenging the orders passed by the Special Tahsildar, Natham Settlement Scheme, but on the other hand, it is their case that they have approached the Assistant Settlement Officer directly. It is pertinent to note that the first respondent in the impugned order has listed out the defects / irregularities in the file of the then Assistant Settlement Officer, Madurai and the same are extracted hereunder for better appreciation:

“(i) the petitioner applied Natham patta under Natham to the Assistant Settlement Officer, Madurai for Settlement grant of nt Scheme without enclosing any valid documentary evidence in support of their claim in accordance with the norms prescribed in the G.O.Ms.No. 1971, Revenue (SSI) Department dated 14.10.1988.



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(ii) *Although the Assistant Settlement Officer has stated in the alleged order that The has inspected the lands in question, no notes of inspection is available in the file.*

(iii) *The Assistant Settlement Officer has completely neglected the authority who is empowered to grant Natham patta and instead of forwarding the representation to the Settlement Special Tahsildar, the Assistant Settlement Officer himself granted Natham patta which unreasonable and untenable.*

(iv) *The Assistant Settlement Officer is only an Appellate Authority and he cannot interfere with the proceedings of the Special Tahsildar, Natham Settlement Scheme.*

(v) *Further, no record of evidence is available in the file to show that the applicant had filed documents to prove their title with continuous possession and enjoyment of the said land.*

(vi) *It is also submitted that the ASO has no power or right to reclassify the Sarkar Punjai into Natham land. The said act itself would go to show that the order passed by the ASO was based on bogus records.*



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vii) Therefore, it is clear from the above facts that the petitioners conspired to grab the Government lands with the connivance of the VAO and the Assistant Settlement Officer and created an order illegally for unlawful gain.”

12. The learned Special Government Pleader appearing for the respondents would submit that in a similarly placed matter wherein one Mani Ambalam and others have filed writ petitions with regard to the lands situated in Kazhanivasal Village and O.Siruvayal Village in Karaikudi Taluk, Sivagangai District and after dismissal of the writ petitions, they have preferred writ appeals in W.A.(MD)No.618 of 2009 and batch cases and a Division Bench of this Court, vide order dated 24.03.2021 dismissed the writ appeals confirming the order passed by the learned Single Judge. In the writ appeal judgment, the Division Bench has come down heavily on the appellants for preferring the appeals despite the fact that their claims are fraudulent. It is necessary to refer the following passages in the judgment passed in W.A.(MD)No.618 of 2009 and batch cases above referred:

“6. In all the matters one R.Muthukrishnan was the Assistant Settlement Officer, who had passed the orders. Orders have been passed stating that Kazhanivasal village was taken over



by the Government by G.O.Ms.No.1231 dated 09.04.1965 for the purpose of settlement proceedings. It was found that in the village revenue accounts, it is registered as encroachment and during the earlier settlement proceedings, the lands were classified as 'Sarkar Punjai', which was a mistake. Therefore, assuming power under the Tamil Nadu Act 26 of 1963 as if it was a mistake, which was brought to the notice of the Assistant Settlement Officer and that he had the power to rectify the mistake, made corrections and directed to issue patta to the appellants. While granting patta, the said Assistant Settlement Officer had recorded the deposition of the Village Administrative Officer alone and even without any report from the Tahsildhar.

10. After getting those clarifications, the Commissioner of Land Administration, had sent a letter to the District Collector, wherein he had stated that any person claiming patta under this Act, should have made a claim within six months from the notified date. Even under Act 26 of 1963, the Government had passed an order in G.O.Ms.No.714 Commercial Taxes and Religious Endowments Department, dated 29.06.1987 and as per the said G.O., only one month time was given to the effect that all objections should be submitted on or before 29.07.1987. Thus, the Commissioner of Land Administration had categorically found that the said Assistant Settlement Officer did not have the jurisdiction to



enquire and pass any order on settled matters after passage of 30 years and thus, it is clear that the said Muthukrishnan had committed a fraud. Later, the act of the said Muthukrishnan Assistant Settlement Officer was brought to the knowledge of all the District Collectors by the Commissioner of Land Administration. Though not necessary, it is relevant to mention that disciplinary action was taken against the said Muthukrishnan Assistant Settlement Officer, who had by this time retired from service.

11. As referred earlier, in the Kazhanivasal village, the settlement proceedings was opened in the year 1965 by G.O.Ms.No.1231 Revenue dated 09.04.1965. The inam lands were taken over by the Government on 15.05.1965. The proceedings of the Assistant Settlement Officer dated 08.07.1977 set out the total extent of the village lands which were taken over by the Government. Similarly, in respect of Siruvayal Village, the lands were taken over on the same day on 15.05.1965 and the proceedings concluded on 18.05.1972. Once the lands are taken over by the Government, it vests with the State and any claim by any person that they are in possession and enjoyment, cannot be entertained. Here also, there was no objection from any of the land owners claiming rectification and the land classification and there was no claim for patta made to the Settlement Officers. The



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settlement proceedings reached the finality as per Sections 12 and 71 of the Tamil Nadu Act 26 of 1963.

14. As all the orders were procured by the appellants by playing fraud and fraud vitiates all solemn acts. Thus, we are of the opinion that the appellants have got no leg to stand and it is unfortunate that they preferred appeals before this Court despite the fact that their claims are fraudulent.”

The above decision and the observations made therein are squarely applicable to the case on hand. Fraud as is well known vitiates every solemn act. Fraud vitiates all transaction known to law of however high a degree of solemnity.

13. As rightly contended by the learned Counsel for the respondents, they have established the fraud committed by the Assistant Settlement Officer Muthukrishnan and that that was accepted by the Division Bench of this Court in other proceedings referred above. The petitioners have nowhere whispered as to how they are entitled over the said extent of 562 sqft, but only by alleging that they were in possession of additional extent, they have claimed patta and obtained the same.



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14. Considering the above facts and circumstances and taking note of the decision of the Hon'ble Division Bench of this Court, this Court concludes that the impugned order passed by the first respondent cannot be found fault with. Consequently, this Court decides that the Writ Petition is absolutely devoid of merits and the same is liable to be dismissed.

15. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. There shall be no order as to costs.

08.07.2024

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

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To

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K.MURALI SHANKAR,J.

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PRE-DELIVERY ORDER MADE IN

**W.P.(MD)No.11693 of 2021
and
W.M.P.(MD)No.9198 of 2021**

08.07.2024