



W.P.(MD)No.16390 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 10.07.2024

DELIVERED ON : 06.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.16390 of 2021
and
W.M.P.(MD)No.13245 of 2021

Sivakumar

... Petitioner

Vs.

- 1.The Principal Secretary and
Commissioner of Land Acquisition,
Ezhilagam,
Chepauk,
Chennai-05.
- 2.The District Collector,
Sivagangai District.
- 3.The District Revenue Officer,
District Revenue Office,
Sivagangai.
- 4.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.



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5.The Taluk Revenue Head Surveyor,
Collectorate Complex,
Sivagangai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.aa5/432/2020, dated 09.11.2020 on the file of the fourth respondent and quash the same as illegal, ultra vires, unconstitutional and without jurisdiction and in consequence direct the respondents 2 to 4 to issue computer patta for the land bearing Sy.No. 24/4, 24/5 of an extent of 04 Acres 58 Cents situate at Alangulam Group, Sivagangai Taluk and District based on Lr.No.K1/34360/2013, dated 04.02.2013; subsequent proceedings of the third respondent in Na.Ka.No.C3/35641/2014, dated 03.07.2014 proceedings of the fourth respondent in Na.Ka.No.P8/907/2016, dated ... 08.2016 within time frame as fixed by this Court.

For Petitioner : Mr.S.Ramesh

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by
: Mr.V.Om Prakash
Government Advocate



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ORDER

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The Writ Petition is directed against the order dated 09.11.2020, passed by the fourth respondent and for directions to the respondents 2 to 4 to issue computer patta for the land bearing S.Nos.24/4 and 24/5 of an extent of 4.58Acres at Alangulam Group, Sivagangai Taluk and District.

2. The case of the petitioner is that the land with an extent of 4.60 Acres originally in S.No.24/3 at Alangulam Group, Sivagangai Taluk before settlement was in possession and enjoyment of the petitioner's paternal grandfather – Veeriah Servai as title holder and his title and possession was recognized and acknowledged by the settlement authorities, that the said Veeriah Servai has been issued with patta in the year 1943, that the entire land of 4.60 Acres in S.No.24/3 was classified as ryotwari Punjai and out of total extent of 4.60 Acres, a small portion of 8 cents have been classified as Vaaikal and assigned with S.No.24/3, but the total extent available in S.No.24/3 has been wrongly classified as Vaaikaal by the Revenue Authorities in the UDR survey, that when the same was brought to their notice, the Revenue Authorities realised the



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mistake of wrong classification of the land and resurveyed the available entire extent of land in S.No.24/3, that out of total extent of 4.60 Acres, 8 cents alone have been classified as Vaaikaal in S.No.24/3 and the remaining extent available in S.No.24/3 was divided as 1.02.00 hectares (2,51 Acres) in S.No.24/4 and 0.81.50 hectares (2.01 Acres) in S.No. 24/5, that except the extent of 8 cents classified as Vaaikaal, the remaining extents, which were assigned with S.Nos.24/4 and 24/5 were classified as ryotwari punja, that the above said classification was made only on following the guidelines issued by the first respondent in Lr.No.K1/34360/2013, dated 04.02.2013, dated 04.02.2013, that as per the orders passed by the respondents 3 and 4, the revenue village accounts and the FMB survey sketch were suitably mutated, that the petitioner inherited the title to the property from his father Kuppamuthu, who in turn inherited from his father Veeraiah Servai, that though the revenue records reflected the name of the petitioner in respect of S.Nos. 24/4 and 5, he was not issued with computer patta, that the petitioner made a representation to the third respondent seeking computer patta and since the matter was kept pending long time, the petitione filed a writ petition in W.P.(MD)No.2251 of 2020 seeking direction for issuance of



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computer patta for the lands in S.Nos.24/4 and 24/5 of Kuthandan Village of Alangulam Group, Sivagangai District, on the basis of the orders passed by the respondents 1 and 3, in pursuance of the petitioner's representation dated 15.11.2019, that the writ petition was disposed of on 10.07.2020, directing the petitioner to enclose a copy of the said order with his representation to the third respondent and the third respondent was directed to consider the same and pass appropriate orders by taking note of the proceedings of the second respondent, dated 03.07.2014 and the proceedings of the first respondent dated 04.02.2014 within a period of 12 weeks from the date of receipt of a copy of the said order, that the third respondent without considering the letter of the first respondent and the orders passed by the third respondent, has passed the impugned order dated 15.11.2019, rejecting the petitioner's application, that the fourth respondent failed to consider the exclusion of S.No.24/3 by the petitioner in claiming patta and the representation was pertaining only to S.Nos. 24/4 and 24/5 and that therefore, the petitioner with no other option, has approached this Court invoking Article 226 of the Constitution of India.



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3. The third respondent has filed a counter affidavit disputing the petitioner's affidavit averments and further stated that the lands in S.No. 24/3 measuring an extent of 4.60 Acres situated at Vallaneri hamlet of Alangularm Village, Sivagangai Taluk and District originally entered in the name of one Narayanan Chettiar during settlement before 1949 and in remarks column, it was mentioned as Vaikkaal, that the petitioner has stated that he derived title from patta dated 04.01.1943 issued by the Sivagangai Devasthanam and Samasthanam, in which also lands in S.No. 24/3 measuring 4.58 Acres situated at Vallaneri hamlet of Alangularm Village, Sivagangai Taluk and District, that the entire Vallaneri hamlet of Alangularm Village was notified under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1949 and the possession was taken over by the Government on 01.10.1951 and the same was given effect by issuing G.O.Ms.No.1671, Revenue Department, dated 07.06.1952 and the same was published in descriptive memoir of 80 Alangulam Village, Sivagangai Taluk of Ramanathapuram District, now Sivagangai District, that the petitioner suppressing the above facts has given representation for sub-division of the lands and on the basis of the said representation and the report given by the Village Administrative



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Officer, the fourth respondent – Tahsildar, who do not have any power to make changes superseding the settlement proceedings vide settlement dated08.2016 and sub-divided the lands in S.No.24/3 as S.No.24/3, 24/4 and 24/5, that the Hon'ble Division Bench of this Court recently has held that the patta issued in respect of the water bodies after 01.01.2000 shall be cancelled and the water bodies shall be restored to their original position, that the lands in S.No.24/3 measuring an extent of 4.60 Acres were only classified as Vaikkal and in fact it is a part of water channel which runs through S.Nos.23/5, 7/1, 26, 24/3 and 32 and reaches ChinnaMoopunari Oorani for which the villagers have preferred a suit in O.S.No.100 of 2022, on the file of the Subordinate Court, Sivagangai, in which the petitioner's father Kuppamuthu was also a party, that after notification made under Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, the lands in question was classified as Government Poramboke and remarks as Vaikkal lands and that the said entries were continued in the revenue records till date and the same attained its finality.



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4. It is their further defence that though the name of the petitioner's predecessor was found in the patta given by Sivagangai Samasthanam, but in the settlement records, the said lands were entered in the name of one Narayanan Chettiar before 1949 and the same was classified and entered as Government Poramboke and in the remarks column, it was mentioned as Vaikkaal in the revenue records, that any application after 20.08.1987 for grant of patta cannot be entertained and any order passed by the settlement authority granting patta after the said cut off date is void abinitio, that the statutory orders passed by the settlement authorities cannot be interfered with by the Revenue Authorities, that the fourth respondent, taking note of the above aspects, has rightly rejected the petitioner's representation and the same does not warrant any interference and that therefore, the petition is liable to be dismissed.

5. As rightly pointed out by the learned Counsel for the petitioner, the petitioner has produced the Samasthana Patta dated 04.01.1943 granted by Sivagangai Devasthanam wherein patta was shown to be granted in favour of Veeriah Servai for the lands in S.No.24/3 for an extent of 4.58 Acres for the fasli on 06.01.1943 and he has also produced



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the land tax receipt issued by the Sivagangai Devasthanam dated 23.03.1944 which also stands in the name of Veeriah Servai. But as rightly contended by the learned Additional Advocate General appearing for the official respondents in settlement “A” register for No.80, Alangularm Village, there are only three sub-divisions for S.No.24 and S.No.24/3 has been shown as Sarkar Poromboke with an extent of 4.60 Acres along with symbol “) (“ which denotes Vaikaal. Even in the SLR copy, for No.80, Alangularm Village, Sivagangai District, S.No.24/3 has been shown as Sarkar Poramboke with an extent of 4.60 Acres in the name of Narayanan Chettiar and in the last column remarks as “கால்வாய்”.

6. As rightly pointed out by the learned Additional Advocate General, they have produced descriptive memoir of 80 Alangularm Village of Sivagangai Taluk of Ramanathapuram District, wherein it has been specifically stated that Alangulam Village came to be notified under Section 1(4) of the Estates Abolition Act, 1948, vide G.O.Ms.No.2169, Rev., dated 22.08.1949 and that the same was taken over by the Government on 07.09.1949.



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7. It is pertinent to note that the petitioner, except the patta issued by the Sivagangai Devasdhanam, dated 04.01.1943 and the land tax receipt dated 23.03.1944, has not produced any materials or records to show that the land in S.No.24/3 of Alangularm Village was owned and possessed by his grandfather Veeriah Servai or after his death by the petitioner's father Kuppamuthu. But on the other hand, from the settlement "A" register, the land in S.No.24/3 has been classified as Sarkar Poromboke and there was specific mentioning of Vaikaal in the said land.

8. The learned Counsel for the petitioner would mainly rely on the letter sent by the first respondent to the third respondent dated 04.02.2014 and the letter sent by the third respondent to the fourth respondent dated 03.07.2014. It is evident from the said letters that the third respondent has sent a letter to the first respondent dated 05.12.2013 stating that the petitioner has been enjoying part of the land in S.No.24/3 of Alangulam group village, which is classified as Vaikaal poromboke and that except the channel portion, the remaining area is levelled on



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ground and sought for clarification / instructions as to whether patta may be issued excluding the channel part, as the petitioner is a landless poor.

9. The first respondent in his letter has informed the third respondent to consider the petitioner's representation under RSO 15 subject to the rules in force. It is further evident that in pursuance of the letter of the first respondent, the third respondent has sent a letter to the fourth respondent on 03.07.2014 informing him about the instructions given by the first respondent and directed the fourth respondent to inspect the land and after removing the channel portion, patta may be issued as per RSO within 15 days.

10. It is the specific case of the petitioner that on the basis of the above communications sent by the first respondent and the third respondent, the fourth respondent has resurveyed the land in S.No.24/3 and the channel portion measuring 8 cents has been sub-divided and assigned with S.No.24/3 and the same has been classified as Vaikaal and the remaining extent was sub-divided as S.Nos.24/4 and 24/5 with extents 2.51 Acres and 2.01 Acres respectively and that S.Nos.24/4 and



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24/5 have been classified as ryotwari punja.

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11. As already pointed out, even according to the petitioner, since the entire land in S.No.24/3 has been wrongly classified as Vaikaal by the revenue authorities in UDR survey, he was constrained to make a representation before the revenue authorities informing the wrong classification and the revenue authorities after realising the mistake of wrong classification, have resurveyed the land and sub-divided the said land into 24/3, 24/4 and 24/5. The learned Counsel for the petitioner would submit that the petitioner has sought for computer patta only with respect to S.No.24/4 to the tune of 2.51 Acres and S.No.24/5 to the tune of 2.01 Acres leaving out the channel portion measuring 8 cents.

12. It is not in dispute that since the petitioner's representation to the third respondent seeking computer patta was kept pending for long time, he was forced to file a writ petition in W.P.(MD)No.2251 of 2020 and this Court, taking note of the submissions on either side and more importantly considering the directions issued by the proceedings of the first respondent dated 04.02.2014 and the proceedings of the third



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respondent dated 03.07.2014, has passed the order dated 10.07.2020 directing the Tahsildar, Sivagangai Taluk to consider the petitioner's representation dated 15.11.2019 and pass appropriate orders by taking note of the proceedings of the third respondent dated 03.07.2014 and the proceedings of the first respondent dated 04.02.2014 within a period of 12 weeks from the date of receipt of a copy of the said order, after affording due opportunity of hearing to the petitioner and the opposite parties if necessary. It is pertinent to note that after passing of the said order by this Court, the fourth respondent has passed the impugned order dated 09.11.2020 rejecting the petitioner's representation dated 15.11.2019.

13. The learned Additional Advocate General would submit that the entire Vallaneri hamlet of Alangulam Village, Sivagangai Taluk was notified under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and the possession was taken by the Government on 01.10.1951 and the same was given effect by issuing G.O.Ms.No.1671, Revenue Department, dated 07.06.1952 and the same came to be published in descriptive memoir of 80 Alangulam Village of Sivagangai



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Taluk, that the persons claiming right over the notified lands were permitted to make application seeking ryotwari patta under the provisions of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act and based upon the application, settlement officer has to conduct enquiry, that the Tahsildar, who is not having any power or jurisdiction to make changes superseding the settlement proceedings, has sub-divided the lands in S.No.24/3 as claimed by the petitioner as S.Nos. 24/3, 4 and 5, that the petitioner has taken a stand that the error had taken place at the time of UDR and if that be the case, the DRO is the competent authority to conduct any enquiry with regard to UDR errors and the Tahsildar is not having any power or jurisdiction to conduct enquiry.

14. The learned Additional Advocate General would further submit that this Court has again and again come down heavily with regard to the encroachments in the water bodies and a Division Bench of this Court recently in W.P.(MD)Nos.31214 and 31221 of 2023, vide order dated 07.03.2024 has clearly held that patta issued in respect of the water bodies after 01.01.2000, shall be cancelled and the water bodies



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shall be restored to their original position and that the land in dispute in S.No.24/3 measuring an extent of 4.76 Acres was only classified as Vaikaal and it is a part of water channel which runs through S.Nos.23/5, 7/1, 26, 24/3 and 32 and reaches Chinnamoopunari Oorani, that after notification made under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, the land in question was classified as Government poramboke and in the remarks column it was mentioned as Vaikaal and then the said entries were continued in the revenue records till now and the same has attained finality.

15. The learned Additional Advocate General would rely on the judgment of the Hon'ble Division Bench of this Court in W.A.No.96 of 2015, dated 09.02.2016 (***Sundaram and others Vs. the Principal Secretary and Commissioner of Land Administration, Chennai and others***), wherein the Division Bench has held as follows:

“29. The State Government, subsequently, by several Government Orders, as referred to in G.O. Ms.No.1300, Revenue Department dated 30 April 1971, had permitted the landholders or the ryots, who could not obtain patta within

the prescribed time under the provisions of the Act, to make



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an application for grant of patta in respect of such lands, provided they were in continuous possession and enjoyment of any land in the estate taken over under the Act. The said permission came to an end subsequently by G.O. Ms.No.714, which stipulated the last date as 20 August 1987. The appellants had never come forward under the aforesaid provisions of the Act or under the extended time granted by several Government Orders, claiming to be in continuous possession and enjoyment of any land in the estate taken over under the Act.”

16. The official respondents have also produced D.O., letter dated 15.09.2023 wherein the order of the Division Bench of this Court in W.A.No.96 of 2016, dated 09.02.2016 was referred, wherein it was stated that any original application after 20.08.1987 for grant of patta is not to be entertained and any order passed by any settlement authority granting patta is void, abinitio, that the grant of patta by the settlement authority beyond the limitation amounts to fraud and set aside such grants under the maxim, 'fraud vitiates all proceedings'.

17. As already pointed out, the learned Additional Advocate



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General would also rely on the Hon'ble Division Bench of this Court in W.P.(MD)Nos.31214 and 31221 of 2023, wherein they have specifically held that the existing encroachments in all the water bodies shall be identified and removed after issuing notice to the encroachers and if constructions have been made, they shall be demolished and further encroachments shall not be permitted nor they shall be regularised, that the patta issued in respect of the water bodies after 01.01.2000 shall be cancelled and the water bodies shall be restored to their original position.

18. In the case on hand, as already pointed out, in the earlier records, i.e., the settlement register, the entire extent of 4.60 Acres in S.No.24/3 has been shown as Vaikaal and classified as Government poramboke. As rightly contended by the learned Additional Government Pleader, when the entire land of 4.60 Acres in S.No.24/3 has been referred as Vaikaal in the earlier revenue records, this Court is at loss to understand as to how and on what basis, the revenue authorities have demarcated the channel portion only to 8 cents and the same is not

applicable to the remaining portion. Since the entire extent of 4.60 Acres



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has been classified as Government Poramboke and as Vaikaal, there is absolutely no basis to make a sub-division and retained 8 cents of land only as Vaikaal portion and classified the remaining extent as ryotwari punjai. As rightly contended by the learned Additional Advocate General, when the entire extent was classified as Sarkar Poramboke, the revenue authorities have absolutely no power or jurisdiction to change the classification at this point of time and as such, the very sub-divisions of lands by the fourth respondent allegedly as per the directions of the respondents 1 and 3, cannot be sustained.

19. Considering the above, this Court has no hesitation to hold that the fourth respondent has rightly rejected the petitioner's representation and as such, the same cannot be found fault with. Consequently, this Court concludes that the writ petition is absolutely devoid of merits and the same is liable to be dismissed.

20. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. There shall be no



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order as to costs.

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

- 1.The Principal Secretary and
Commissioner of Land Acquisition,
Ezhilagam,
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- 2.The District Collector,
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K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY ORDER MADE IN

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