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W.P.(MD)NO.22465 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 31.07.2024

PRONOUNCED ON : 16.08.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.22465 of 2022 AND
W.M.P.(MD)Nos.16657 & 16658 of 2022

S.I.Basheer Ahamed

... Petitioner

Vs.

1. The Commissioner of Land Administration,
O/o.the Land Administration,
Chepauk, Chennai – 600 005.

2. The Commissioner of
Survey and Settlement,
Survey House, Chepauk,
Chennai – 600 005.

3. The Divisional Engineer / Central
Ponmalai Railway Estate,
Southern Railway,
Tiruchirappalli Division,
Tiruchirappalli District.

4. The Assistant Settlement Officer,
Chepauk(North),
O/o.Commissioner of Survey
and Settlement, Survey House,
Chennai – 600 005.

5. The Tahsildar,
Tahsildar Office,
Tiruchirappalli East,
Town Hall Road,
Tiruchirappalli District.

... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings and set aside the order passed by the first respondent in favour of the third respondent in respect of the petitioner's claim land in Roc.No./K1/1265813/2021, dated 26.08.2022 reversing the refusal order of the claim of the petitioner by the second respondent in Na.Ka.u.(2)/4037/2017, dated 16.02.2021 and consequently issue patta in respect of the petitioner's claim land as per law on the ownership of the predecessor of the petitioner in consonance with clear observation made by this Court in W.P.(MD)No.7357 of 2013 dated 12.11.2013 and W.P. (MD)No.12805 of 2017 dated 21.09.2017 within a stipulated time to be fixed by this Court.

For Petitioner	: Mr.M.Sricharan Rangarajan, Senior counsel, for Mr.R.Senthilkumar.
For R-1, R-2, R-4 & R-5	: Mr.R.Baskaran, Additional Advocate General, assisted by, Mr.P.Thambidurai, Government Advocate.
For R-3	: Mr.K.R.Laxman * * *

ORDER

The petitioner herein challenges the order dated 26.08.2022 passed by the Commissioner of Land Administration, Chepauk, Chennai rejecting his claim over the land comprised in survey No.2/1, Kottapattu Village, Tiruchirappalli (East) Taluk.



2. The petitioner claims that in the year 1770, the British Rulers had granted lands as Inam to one of his forefathers under title deed No.814 in Sengulam Village. It was confirmed by the Inam Commissioner vide TD/27.08.1964. They were subsequently brought under the category of free hold lands. Kottapattu Village was carved out of Sengulam Village. The petitioner asserts his claim by way of inheritance over 22.30 acres in survey No.2/1 in Kottapattu Village.

3. The petitioner filed a claim petition under Tamil Nadu Act 26 of 1963. The petitioner's application was rejected on 18.02.2013. Questioning the same, the petitioner filed W.P.(MD)No.7357 of 2013. It was disposed of on 12.11.2013. The rejection order was set aside and the matter was remitted to the file of the concerned authority for fresh disposal. The Commissioner of Survey and Settlement, Chepauk, Chennai rejected the petitioner's appeal vide order dated 16.02.2021. The said authority rejected not only the petitioner's claim but also the claim of the Railways over the land in question. Aggrieved by the same, the Railways filed revision before the Commissioner of Land Administration. Pursuant to the order passed by this Court, the petitioner also got himself impleaded in the said revision proceedings. Since the



first respondent also rejected the petitioner's request, the present writ petition came to be filed.

4. The learned Senior counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He took me through the earlier orders passed by this Court. He laid particular emphasis on the order dated 12.11.2013 made in W.P. (MD)No.7357 of 2013. He drew my attention to paragraph No.11 of the said order. It reads as follows:-

“11. Be that as it may, when the petitioner being the owner of the land covered in S.No.2/1, patta should have been issued in respect of the said lands after considering all the documents produced before the Assistant Settlement Officer, but, the impugned order does not reflect the consideration of any of the important documents produced by the petitioner and also does not reflect the application of mind in respect of the stand taken by the respondent in the counter affidavit, filed in W.P. (MD)No.8783 of 2001 wherein the respondent themselves admitted that the claim of the petitioner would fall under Section 11 of the Inam Act, therefore, this Court without going into the merits of the matter, as this would have some bearing upon the decision going to be taken by the Assistant Settlement Officer, hereby directs the Assistant



Settlement Officer to consider the claim of the petitioner on the basis of the counter affidavit filed by them in W.P.No. 8783 of 2001, detailed enquiry report submitted by the Assistant Settlement Officer, Thanjavur by his letter in B. 190/2001, dated 10.04.2001 and one another detailed report which was sent to the Commissioner of Land Administration by proceedings in D2.6170/2000, dated 12.07.2001 and the documents 1 to 23 filed by the petitioner, and pass suitable orders, on merits and in accordance with law, within three months from the date of receipt of a copy of this order.”

5. The learned Senior counsel was at pains to point out that none of the additional documents filed by the petitioner were considered by the Commissioner of Land Administration. He wanted this Court to set aside the impugned order and remit the matter to the file of the first respondent for fresh consideration.

6. The learned counsel for the Railways as well as the learned Additional Advocate General appearing for the official respondents submitted that the impugned order is well reasoned and that it does not warrant interference.

7. I carefully considered the rival contentions and went through the materials on record.



8. Even though the writ petitioner claims right over a large extent of land by virtue of the title deed issued during British times, it is conceded that the case on hand is confined to survey No.2/1 in Kottapattu Village. Though the learned Senior counsel appearing for the writ petitioner painted on a large canvass, I do not propose to enter into the factual thicket. In writ proceedings, such an exercise is not permissible. Suffice it to say that Fort St. George Gazette published in February/ March 1912 contains a declaration that under Section 6 of the Land Acquisition Act 1894, 22 acres of land in S.F.No.2B2 has been acquired for public purpose that is for the Locomotive Carriage and waggon workshops and for staff quarters at Trichirapoly. One Vakil A.Kuppuswamy Aiyar has been shown as the owner of the property. In the resettlement register published on 07.06.1926 by the Special Settlement Officer, old survey No.2B2/ new survey No.2/1 of Kottapattu Village stands in the name of Railways(temporary). It mentions the extent of land as 22.30 acres. The present survey No.2/1 correlates to the earlier S.F.No.2B2. The names of the petitioner's forefathers are not found in the aforesaid gazette publications. Thus for more than 112 years, the petitioner's family name is not found in the official records in respect of survey No.2/1(corelated to old survey No.2B2) of Kottapattu



Village. In these circumstances, in writ jurisdiction it may not be possible for me to interfere with the impugned order and hold in favour of the petitioner. The petitioner may have to establish his case only before the jurisdictional civil Court.

9. With this observation, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

16.08.2024

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

To:

1. The Commissioner of Land Administration,
O/o.the Land Administration, Chepauk, Chennai – 600 005.
2. The Commissioner of
Survey and Settlement,
Survey House, Chepauk, Chennai – 600 005.
3. The Assistant Settlement Officer,
Chepauk(North),
O/o.Commissioner of Survey
and Settlement, Survey House, Chennai – 600 005.
4. The Tahsildar,
Tahsildar Office, Tiruchirappalli East,
Town Hall Road, Tiruchirappalli District.



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8

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G.R.SWAMINATHAN,J.

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