



W.P.(MD) No.11649 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.11649 of 2016

and

W.M.P(MD)No.8923 of 2016

1.Kasi
2.Narayanan
3.Ramasamy
4.A.R.Kumarappan

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Aranthangi Village,
Pudukottai District.

2.The Additional Chief Secretary and
Commissioner of land Administration
Chepauk,
Chennai.

3.V.Veerappan
4.K.Silambayee
5.A.Veerammal
6.A.Kannan
7.A.Prabhu
8.C.Pottu
9.C.Saraswathi



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10.K.Koothaiah

(R3 to R10 are impleaded vide Court order dated 15.11.2022 in W.M.P(MD)No.11699 of 2022)

11.The Director,
Directorate of Survey and Settlement Department,
Chennai.

12.The Deputy Director,
Directorate of Survey and Settlement Department,
Madurai Region, Madurai.

(R11 and R12 are impleaded vide Court order dated 14.08.2024 in W.M.P(MD)No.806/2023)

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the 2nd respondent dated 13.05.2016 in K3/09239/2015 and quash the same.

For Petitioners	:	Mr.S.Madhavan
For R1 and R2	:	Mr.D.S.Nedunchezian
		Government Advocate
For R3 to R5,		
R7 to R10	:	Mr.K.Balasundaram



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ORDER

This writ petition is filed challenging the order passed by the second respondent dated 13.05.2016 in K3/09239/2015 and to quash the same.

2.It is necessary to briefly allude to the facts in order to appreciate the petitioners' grievance to the impugned order. The petitioners would submit that they are the co-owners in respect of the lands, which are the subject matter of the present writ petition.

3.It is the case of the petitioner that the lands situate in Azhinilai Village in Aranthangi Taluk, was originally a Jamin Village. Under the provision of the Tamil Nadu Estates(Abolition and Conversion into Ryotwari) Act, Act xxvi of 1948, (hereinafter referred to as the Act), it was taken over by the Government in the year 1954. The lands in S.No. 79/22 to an extent of 1.23, S.No.181/14 to an extent of 0.08, S.No.181/19 to an extent of 0.66, S.No.181/20 to an extent of 0.62, S.No.181/21 to an extent of 0.54 and S.No.233/3 to an extent of 0.49 and the corresponding



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extents belonged to the father of the petitioners viz., Arunachalam Chettiar under a sale deed of the year 1919 to 1937. The petitioners' father was held to be the owner of the aforesaid land. However, the petitioners had not applied for patta, since many of the ryots had not obtained patta. Thereafter, G.O.Ms.No.1300 Revenue Department, dated 30.04.1971 was passed by the Government. Under the provisions of the Government Order, the RDO or the DRO, should conduct an enquiry in the village and its neighbouring village and the orders passed by them either granting or refusing to grant patta was the subject matter of revision to the Board of Revenue (settlement of Estates).

4.The petitioners' mother viz.,Meenakshi Achi had applied for grant of patta as per G.O.Ms.No.2502 dated 08.07.1958, under which the Government had extended the time for grant of ryotwari patta. While her application had been made, G.O.Ms.No.1300, dated 30.04.1971 came to be passed. She was informed by the DRO that patta could not be granted under G.O.Ms.No.2502, but patta has to be granted only under G.O.Ms.No.1300 dated 30.04.1971 and therefore, she was directed to



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approach the first respondent. The first respondent conducted a detailed enquiry and thereafter granted patta to Meenakshi Achi. After the death of the said Meenakshi Achi, there was a partition in the family and under the partition, the property in question was allotted in favour of the petitioners. During the course of hearing the application of Meenachi Achi, the first respondent found that pending enquiry for grant of patta on the application of Meenakshi Achi, the lands in S.Nos.181/19, 181/21 and 79/22 were assigned to one Arumugam and two others by the Tahsildar, Aranthangi. This had been done, despite the pendency of the application under G.O.Ms.No.1300, dated 30.04.1971. The petitioners would further submit that the assignee has not taken possession of the land and it continued in the hands of the petitioners and their predecessor in title.

5.One of the assignees, viz., Arumugam had filed a suit in O.S.No. 153 of 1987 for declaration before the District Munsif Court, Aranthangi. This suit was dismissed on 26.11.1991. Against which, there was no appeal.



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6.In this backdrop, the petitioners were shocked to receive show cause notice dated 07.07.2005 as to why the patta granted to them by the second respondent should not be cancelled, that too after the period of 19 years. The petitioners immediately attended the enquiry and submitted the documents and gave their explanations. However, without considering the explanations, by order dated 21.10.2005, the second respondent had cancelled the patta granted in favour of the petitioners. Therefore, the petitioners had filed W.P(MD)No.10879 of 2005 before this Court. The assignees were added as parties in the said writ petition. This Court, after hearing both parties, allowed the said writ petition and set aside the order passed by the second respondent and remitted the matter back to the second respondent for fresh consideration. The petitioners would submit that after such remand, the very same order has been passed challenging the same, the petitioner is before this Court.

7.A counter has been filed by the second respondent by denying the averments contained in the affidavit stating that on inspection of the



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Tahsildar, the writ petitioners are not in possession of the lands and it is in possession of the other persons. That apart, the second respondent would further state that the Revenue Divisional Officer issued ryotwari patta, without cancelling the assignment granted in favour of the private individual. Since it is against the principle of G.O.Ms.No.1300 Revenue Department dated 30.04.1971, the second respondent has passed the impugned order and set aside the order passed by the first respondent, dated 30.07.1986.

8.Heard the learned counsel on either side.

9.A perusal of the order, dated 26.07.1971 passed by the Commissioner of the Land Revenue, Land Reforms and Settlement of Estates, would clearly show that the very same partition deed viz., document 530/1960, that has been presented now had been considered by the Board of Revenue to grant patta to the said Meenakshi Achi.



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10. A reading of the impugned order would indicate that the order has been passed on the premise that the petitioners had not proved the continuous possession and enjoyment of the lands in question. The second respondent has failed to appreciate the judgment and decree passed in O.S.No.153 of 1987 filed by one of the assignees for declaration and bare injunction. The said suit was filed against the purchaser viz., Meenakshi Achi and held that they are in possession of the property and the Court has also observed that before the Revenue proceedings under G.O.Ms.No.1300 was completed, the assignees had rushed to the Court. This judgment was not challenged by them. The petitioners had produced the documents right from the year 1990, Adangal extracts patta etc., have also been produced and none of them taken into consideration by the first respondent to show that the petitioners are in possession of the property and the only ground for dismissal being the fact that the petitioners had not shown continuous possession. Therefore, the impugned order is liable to be set aside and accordingly, the impugned order passed by the second respondent dated 13.05.2016 in K3/09239/2015 is set aside.



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11.In the result, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

18.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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P.T.ASHA, J.
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