In the High Court of Judicature at Madras

Reserved on : **17.4.2025**	Delivered on: **22.4.2025**

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.24185 of 2021
& WMP.Nos.25519 of 2021 & 146 of 2024

K.Somasundaram ...Petitioner

Vs

1.The District Revenue Officer,
Collectorate Building,
Coimbatore-641018.

2.Senthil Kumar
3.Sundaraj
4.K.Sureshkumar

(R4 Impleaded as per order
dated 04.6.2024 in WMP.No.
WMP.No.1823/2024 by NSKJ) ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the 1st respondent in Na.Ka.No.76354/2005/A2 dated 01.10.2021 and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner	:	Mr.V.Raghavachari, SC for Mrs.V.Srimathi
For R1	:	Mr.P.Sathish, AGP
For R2	:	Mr.M.Soundar Vijay Arul Ram for Mr.R.C.Paul Kanagaraj
For R3	:	A.Mohamed Ismail
For R4	:	Mr.T.Mohan, SC for Mr.R.Prabhakaran

ORDER

This is a petition filed by the petitioner seeking to quash the proceedings of the first respondent dated 01.10.2021.

2. Heard both.

3. The facts of the case and the stand taken by the respondents were captured in the order passed on 11.3.2025, which is extracted as hereunder :

> *"This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 01.10.2021, wherein the 1st respondent has*

directed the restoration of the subject property in SF.No.42 as 'Sarkar Poramboke Kuttai' and has also further directed the removal of the encroachments made in the said property and to carry out the necessary corrections in the revenue records and also to cancel the document dated 21.04.2005 which was registered as Document No.2443 of 2005. The case of the petitioner is that he purchased the subject property by virtue of registered sale deed dated 21.04.2005 from the legal heirs of Erappa Gounder. After the purchase of the property, the revenue records were also mutated in the name of the petitioner on 23.09.2005. A writ petition came to be filed in WP.No.35890 of 2005 by one Arumugam seeking for a direction to the District Collector, Sub Collector and the Tahsildar not to allow the petitioner from altering the physical features of the property at SF.No.42. Even though counter affidavit was filed by the official respondents as well as the writ petitioner, the writ petition came to be dismissed as withdrawn by granting liberty to the said Arumugam to initiate appropriate proceedings as per law. This order was passed by the Division Bench on 04.01.2006.

2. Pursuant to the above order, a representation/complaint was made by the 3rd *respondent. Based on the same, the 1st respondent conducted an enquiry and the impugned proceedings dated 01.10.2021, came to the issued by the 1st respondent by directing the restoration of the subject property as 'Sarkar Poramboke Kuttai' and to remove the encroachments made therein and also to carry out the necessary corrections in the revenue records and to cancel the sale deed that has been registered in favour of the petitioner on 21.04.2005 registered as Document No.2443 of 2005. Aggrieved by the same, the present writ petition has been filed before this Court.*

3. The 1st respondent has filed a counter affidavit. In the counter affidavit, 1st respondent has taken a stand that the subject property was categorised as a water body right from the beginning and the same is evident from the proceedings of the Board of Revenue [Settlement of Estate] Madras dated 25.11.1980 pursuant to which the land which was standing in the name of an individual was restored as a 'kuttai'. This proceedings had become final and the petitioner came into the scene much later in the year 2005. The petitioner was attempting to convert the water body into an agricultural land. The same resulted in a complaint made before the 1st respondent The

1st respondent has taken into consideration the earlier orders that were passed by this Court in a batch of writ petitions in WP.Nos.1992 etc, of 1976 dated 14.08.1979, pursuant to which the Board of Revenue issued proceedings dated 25.11.1980. Hence, the existence of the water body in SF.No.42 was apparent from the records that were available and as a result, any attempt that was made to change the nature of the property is barred. Accordingly, the 1st respondent has sought for the dismissal of this writ petition.

4. The 4th respondent has also filed a counter affidavit. The 4th respondent has taken a stand that the subject property is a catchment area and the same was attempted to be converted into agricultural lands as a result of which, the persons having their agricultural lands in and around the property were seriously affected. That apart, kulam had vested with the Government for more than 40 years and there is no question of dealing with the same by the private individuals. The proceedings of the Board of Revenue dated 25.11.1980 has also reached its finality and therefore the entire extent of the water body must be construed to have been encroached upon by the petitioner which was directed to be removed by the 1st respondent after carrying out the necessary changes in the revenue *records. Accordingly, the 4th respondent has also sought for the dismissal of the present writ petition.*

5. The learned counsel for the 4th respondent placed reliance upon Section 14A of the Tamil Nadu Estates [Abolition and Conversion into Ryotwari] Act, 1948 which specifically bars ryotwari patta not to be granted in respect of private tank or oorani. The learned Senior Counsel submitted that ryotwari patta that is granted in respect of such a water body shall stand cancelled and it shall be deemed to be a land in respect of which neither the land holder nor any other person will be entitled to ryotwari patta under the Act.

6. The learned Additional Government Pleader appearing on behalf of the official respondents submitted that the 1st respondent has applied his mind on all the relevant records and has reached a conclusion and therefore the order of the 1st respondent does not suffer from any illegality warranting the interference of this Court.

7. The learned counsel for the petitioner heavily relied upon the counter affidavit that was filed by the Tahsildar, Pollachi in the earlier writ petition in WP.No. 35890 of 2005 wherein there was absolutely no mention about the earlier proceedings and in fact, in the said affidavit, the *case of the writ petitioner was fully supported by the official respondents. In spite of the same, the official respondents are now taking completely different stand. The learned counsel for the petitioner sought for some time to take instructions as to whether the vendors of the writ petition were parties in the batch of writ petitions which were disposed of by this Court in WP.No.1992 etc., 1976 dated 14.08.1979 and whether the proceedings of the Board of Revenue dated 25.11.1980 has become final.*

8. The learned Additional Government Pleader is directed to produce the original records in this case.

9. Post this writ petition under the caption 'part heard cases' on 18.03.2025."

4. Once again, when the matter came up for hearing on 26.3.2025, this Court passed the following order :

"Pursuant to the earlier order passed by this Court on 11.03.2025,the matter was listed for hearing today.

2. Mr.V.Raghavachari, learned Senior Counsel appearing on behalf of the petitioner submitted that the vendors of the petitioner were also parties in the earlier batch of writ petitions *filed in W.P.Nos.1992 etc, of 1976 and the writ petition in which the vendor was a party is W.P.No.1845 of 1979. The learned Senior Counsel further clarified that the proceedings of the Board of Revenue dated 25.11.1980 was put to challenge and the same was set aside by a learned Single Judge of this Court in W.P.Nos.71 etc, of 1981 by order dated 24.07.1987 and this judgment is reported in 1987 Writ LR 408. The learned Senior Counsel submitted that after setting aside the proceedings of the Board of Revenue, the matter was sent back to the Board of Revenue to consider and take a fresh decision on merits. It was contended that there was absolutely no development thereafter. The learned Senior Counsel submitted that the impugned order was passed by the 1st respondent by taking note of the various reports submitted by the revenue authorities and strong reliance was placed on the proceedings of the Board of Revenue dated 25.11.1980 which has already been interfered by this Court and further directions were issued.*

3. The learned Additional Government Pleader appearing on behalf of the official respondents submitted that he wants to take instructions on the judgment that was brought to the notice of this Court by the learned Senior

Counsel for the petitioner today. The learned Additional Government Pleader further submitted that he requires some time to produce the original records.

4.The learned Senior Counsel appearing on behalf of the private respondents also seeks for some time.

5. Post this case under the caption "part heard cases" on 16.04.2025."

5. The only issue that is involved in the above writ petition is as to whether the common order passed in W.P.No.71 of 1981 etc. cases dated 24.7.1987 interfering with the order passed by the Board of Revenue will enure in favour of the petitioner and consequently, whether the petitioner is entitled for restoration of the patta in his favour with respect to the subject property.

6. It is not in dispute that initially, the ryotwari patta that was granted for S.No.42 to the father of the vendor of the petitioner was canceled and the lands were directed to be vested with the Government free from all encumbrances. This order passed by the

Settlement Officer, Coimbatore was put to challenge by the petitioner's vendor - Mr.Dayananda Raja in W.P.No.1845 of 1979, which was taken up along with other connected writ petitions by a Division Bench of this Court. The issue that arose before the Division Bench was restricted to find out as to whether the lands belonging to the petitioners therein continued to be Ooranis or had ceased to be Ooranis long ago. The Division Bench ultimately held that if the lands ceased to be Ooranis, the patta can be granted in favour of the petitioners therein. On the other hand, if it was found to be continuing as Ooranis, then, Section 14A of the Amending Act XLIX of 1984 would apply and as a result, the patta had to be necessarily canceled.

7. In order to ascertain this fact, all the writ petitions were disposed of by a common order dated 14.8.1979 by directing the Board of Revenue to ascertain the said fact and pass orders and till the final orders were passed by the Board of Revenue, the Division Bench of this Court further directed status quo to be maintained. The Board of Revenue ultimately rejected the claim made by the land owners on the ground that the ryotwari pattas that were issued for the lands

were classified as private tanks or Ooranis. This order was passed by the Board of Revenue through proceedings dated 25.11.1980 and hence, the lands in S.No.42 continued to be cirkar poramboke kuttai.

8. The proceedings of the Board of Revenue came to be challenged in three writ petitions namely W.P.Nos.71, 161 and 1379 of 1981. There was no indication that the vendor of the petitioner had also questioned the order dated 25.11.1980 passed by the Board of Revenue. W.P.Nos.71, 161 and 1379 of 1981 came to be allowed by a learned Single Judge of this Court on 24.7.1987 and it was reported in ***1987 W.L.R. 408.***

9. In spite of the fact that the order dated 24.11.1980 was not challenged by the vendor of the petitioner, the patta stood in the name of the father of the petitioner's vendor - the said Mr.Erappa Gounder in patta No.271. Thereafter, the patta was transferred in the name of the vendor of the petitioner and the same is evident from the patta passbook that was issued in his name. Further, the subject property was sold in favour of the petitioner vide sale deed dated 21.4.2005

registered as doc.No.2443 of 2005 on the file of the Sub-Registrar, Pollachi. Pursuant to the said sale, the patta was transferred in the name of the petitioner in patta No.271.

10. One Mr.P.A.Arumugam filed W.P.No.35890 of 2005 seeking for the relief of Mandamus against (i) the District Collector, Coimbatore District, (ii) the Sub-Collector, Pollachi, (iii) the Tahsildar, Pollachi Taluk and (iv) the petitioner seeking to direct the official respondents not to allow the petitioner from altering the physical features of the lands in S.No.42. In this writ petition, the specific stand taken in the counter filed by the Tahsildar, Pollachi Taluk is as follows :

> *"2. It is submitted that in Pollachi Taluk, there were some Zamin Villages and among them, Ramapattinam and Mannur were the Zamin Villages maintained by Ramapattinam Zamin. During their regime, Zamins were held nearly 200 to 300 acres of land for the zamin. The Ramapattinam Zamin have also maintained irrigation source in the name of Mudampallie Amman Kovil Kulam in S.F.No.42, Mannur Village in an extent of 6.51.5 hectare vide patta No.271. The patta was issued in the name of Tvl.E.Ananda*

Raja @ Erappa Gounder and Dayananda Erappa Gounder, which is a private patta land. Enquiry reveals that the surplus water from Periyanai Vaikkal and perculated water have been filled in the Kulam and the pattadars belonging to Zamin family have utilized this water for irrigation purpose. The lands held by the Zamin family are on the northern side downward to this kulam. The 'A' register of Mannur Village shows that this kulam is a patta land and in the last column of the register, it is mentioned as 'நிலவியல்குளம்' and not mentioned as an irrigation source to any lands of this village. No patta lands included as single or double crop wet lands to the said land. The land is only a patta land as per enjoyment and as per village records. The respondents 1 to 3 cannot interfere with the said land. Now, the Zamin family members have disposed off the lands on by one to some other persons. The following lands held by zamins have been sold :

S.No.	*35*	*3.03.0 hect.*
"	*36*	*1.90.0 "*
"	*37*	*1.98.0 "*
"	*38*	*2.26.0 "*
"	*39/1*	*0.46.0 "*
"	*39/2*	*3.36.0 "*
"	*43/1*	*0.55.5 "*
"	*44/1*	*1.45.5 "*

"	*44/2*	*0.13.0 "*
"	*44/3*	*0.10.5 "*
"	*51/1*	*0.31.0 "*
"	*51/2*	*0.26.0 "*
		15.80.5 "

Nearly last to 25 years, there were no water source from Periyanai Vaikkal to this kulam and no water in the said kulam. The pattadars have sold the lands in this S.F.No.42 to the fourth respondent that is Thiru K.Somasundaram S/O Kalimuthu Nadar through a sale deed No.2443/ 2005 dated 11.5.2005 of Sub-Registrar Office, Pollachi. The sale was executed by their power agents. After the sale, the title were changed in the name of the purchaser in the village records such as chitta, adangal and R.S.R.

4. It is further submitted that on perusal of the extract of the old R.S.R., the land in S.F.No.42 was registered in the name of one N.Erappa Gounder vide patta No.1 and in the updating R.S.R. the same land has been registered in the name of Tvl.Anandaraj @ Erappa Gounder and Dayananda Raj Erappa Gounder, who are legal heirs of the above said N.Erappa Gounder. In the old R.S.R., no remarks was made regarding nature of land. But, in the updating R.S.R., in the remarks *col., it is mentioned as 'நிலவியல்குளம்'. But it is only the private land and respondents have no right over this land. In the patta pass book issued to Thiru K.Anandaraja, the said in S.F.No.42 for the whole extent 6.51.5 hectare was also mentioned.*

....

10. With regard to the averments made in para 6 of the affidavit, it is submitted that the land in S.No.42 of Mannur Village in Pollachi Taluk with an extent of 6.51.5 hectare has been registered in the revenue records in the name of Tvl.Anandaraja @ Erappa Gounder and Dayananda Raj Erappa Gounder. The said lands was sold to the fourth respondent vide document No.2443/2005 dated 11.5.05 in Sub-Registrar Office, Pollachi. The title of the said lands also changed in the revenue records to the fourth respondent. Hence the land is a private patta land and the respondents 1 to 3 are not in a position to interfere with the said property. The contention of the writ petitioner is a false one."

11. The Tahsildar, Pollachi Taluk, who filed the counter affidavit, had taken a very specific stand that the subject property in S.No.42 is only a patta land, that there is no water source to this land, that the petitioner, who was the fourth respondent in W.P.No.35890 of 2005,

had purchased the subject property in the year 2005, that the patta was also issued in his favour and that the claim made by the petitioner therein namely the said Mr.P.A.Arumugam to the effect that the subject land was a water body was false.

12. Later, W.P.No.35890 of 2005 came to be withdrawn by order dated 04.1.2006. There was a lull till the year 2019. At a later point of time, the second respondent gave a representation on the grievance day i.e. 29.7.2019, in which, he took a similar stand as was taken by the said Mr.P.A.Arumugam to the effect that the subject land was a water body. A similar representation was sent by the third respondent on 26.8.2020.

13. Subsequently, the first respondent, through the impugned proceedings, came to the conclusion that the order passed by the Board of Revenue vide proceedings dated 25.11.1980 had become final, that therefore, there was no scope for continuing with the patta in the name of the petitioner, that the subject property must be classified as cirkar poramboke kuttai, that proceedings must be taken

to evict the petitioner from the subject property and that the sale deed executed in favour of the petitioner must also be canceled.

14. The counter affidavit filed by the first respondent in this writ petition basically supports the reasoning given in the impugned order. But, there is no whisper about the earlier stand that was taken by the Tahsildar, Pollachi Taluk in W.P.No.35890 of 2005 wherein the case of the petitioner was supported in toto.

15. The main ground that was urged by the learned Senior Counsel appearing on behalf of the petitioner is that the order passed by the learned Single Judge of this Court in W.P.No.71 of 1981 etc. cases dated 24.7.1987 will also enure in favour of the petitioner.

16. Per contra, the learned Senior Counsel appearing on behalf of the fourth respondent submitted that the said order dated 24.7.1987 will confine itself only to the petitioners therein and that the same relief cannot be extended to the petitioner's vendor, who never challenged the order passed by the Board of Revenue.

17. It is quite unfortunate that in spite of the order passed by the Board of Revenue vide proceedings dated 25.11.1980 and though there is no material to show that it was put to challenge by the petitioner's vendor, the revenue records, right through, stood in the name of the predecessor in title of the petitioner. When the petitioner purchased the subject property in the year 2005, he was not even aware of the fact that such orders were passed by the Board of Revenue in the year 1980. He went by the title of his vendor and the revenue records that stood in his name. After the purchase of the subject property, the patta was transferred in the name of the petitioner and he continued to enjoy the subject property. The petitioner became aware that there was some issue involved in the subject property for the first time only when W.P.No.35890 of 2005 was filed by the said Mr.P.A.Arumugam. In that writ petition, by filing a counter, the Tahsildar, Pollachi Taluk supported the case of the petitioner and therefore, there was no occasion for the petitioner to doubt his right and title over the subject property. Further, W.P.No. 35890 of 2005 was dismissed as withdrawn on 04.1.2006.

18. The next trigger started in the year 2019 when the representation dated 29.7.2019 was given by the second respondent on the grievance day. Thus, there was no indication that the subject property retained its character as a water body and that the petitioner started utilizing the subject property and was having a coconut grove. The said representation dated 29.7.2019 ultimately resulted in passing the impugned order dated 01.10.2021 by the first respondent.

19. In the considered view of this Court, the issue as to whether the subject property continued as Oorani or ceased to be Oorani started from 1979 onwards when the vendor of the petitioner questioned the order passed by the Settlement Officer, Coimbatore. Since there was no indication that the subject property retained its character as a water body and the revenue records also stood in the name of the petitioner's vendor, the petitioner purchased the subject property in the year 2005. Over a period of time, the subject property has lost its character as a water body and it ceased to be a water body long back.

20. It is true that the common order dated 24.7.1987 passed by the learned Single Judge in W.P.No.71 of 1981 etc. cases may not directly enure in favour of the petitioner. But, considering the subsequent events that took place whereby the patta was issued in the name of the petitioner's vendor and the consequential transfer in the name of the petitioner after the purchase of the subject property in the year 2005, the very same reasons that were given in the earlier writ petition will come to the aid of the petitioner. It is too late in the day to now deprive the petitioner of the subject property that was purchased by him in the year 2005 as there was absolutely no indication for the petitioner to even doubt that at one point of time in the past, the subject property was classified as Oorani. If, ultimately, the subject land has lost its character long ago and by no stretch, it can be said to be a water body, the right of the petitioner should not be defeated just because it was identified as a water body at some point of time in the past.

21. In the case in hand, repeated attempts were made by many persons at different point of time to cancel the patta standing in the

name of the petitioner. The first attempt was when the said Mr.P.A. Arumugam filed W.P.No.35890 of 2005 before this Court and it was dismissed as withdrawn in the year 2006. Thereafter, in the year 2019, this issue was once again raked up, which resulted in passing the impugned order. The officials were not really serious in recovering the subject property from the petitioner since they found that the subject property lost its character as a water body and it has been dealt with and the patta always stood in the names of the private individuals. That is why the counter affidavit filed by the Tahsildar, Pollachi Taluk in W.P.No.35890 of 2005 supported the case of the petitioner. Subsequently, on the very same grounds raised by other private individuals in the years 2019 and 2020, the officials have now reached a different conclusion.

22. The upshot of the above discussions leads to the only conclusion that the impugned order is liable to be interfered with by this Court.

23. Accordingly, the writ petition is allowed, the impugned order passed by the first respondent dated 01.10.2021 is set aside and the patta with respect to the subject property shall continue to stand in the name of the petitioner. No costs. Consequently, the connected WMPs are closed.

22.4.2025

To
The District Revenue Officer,
Collectorate Building,
Coimbatore-641018.

RS

N.ANAND VENKATESH,J

RS

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