
(1983) 06 MAD CK 0008
In the Madras High Court

K. Palanisankar

APPELLANT

Vs

The Commissioner of Land Administration and Others

RESPONDENT

Date of Decision : 28-06-1983

Acts Referred:

Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 — Section 11(a)

Citation : (1984) 1 MLJ 308

Hon'ble Judges : V. Ramaswami, J

Bench : Single Bench

Judgement

V. Ramaswami, J.—Vagaikulam village in Ambasamudram taluk, Tirunelveli District was notified and taken over under the Tamil Nadu

Estates (Abolition and Conversion into Ryotwari) Act (XXVI of 1948), Survey No. 1061 of this village measuring an extent of 3-41 acres out of a

larger extent of 13-06 acres is the subject-matter in this writ petition. This property was brought to sale in execution of a decree in O.S. No, 142

of 1925 on the file of the District Munsif, Ambasamudram, as the land belonging to one Sivananja Perumal Thevar, son of Subbu Thevar, who was

the judgment-debtor in that case. However, the sale was not concluded probably for the reason that the decree-holder had been paid. The said

Sivananja Perumal Thevar executed a sale deed in respect of the said property to his wife on 20th March, 1929. Though the notification u/s 3 of

the Act and the date of vesting are not readily available in the records, it is seen from the impugned orders that the settlement enquiry was

completed and final settlement enquiry orders were published on 10th September, 1960. The petitioner purchased the property from Subbammal,

the purchaser from Sivananja Perumal Thevar under a registered sale deed dated 3rd February, 1966. After such purchase it is stated that the

petitioner had put up a petrol bunk and three kerosene depots" in the property. At that stage, it appears that the Revenue Department brought to

the notice of the petitioner that the land had been registered as parai poramboke during the final settlement enquiry and that he or his predecessor-

in-title should have taken steps for getting patta, . On further enquiry, the petitioner states, that he also came to know that one N. Sankaran, of

Ambasamudram was given a ryotwari patta in respect of an extent of about two acres in Survey No. 1061, in the proceedings; of the Settlement

Officer, Palayamkottai, dated 7th August, 1962. In that order it was stated that Survey No. 1061 measures a larger extent of which two acres are

cultivable lands in the possession of said Sankaran and that therefore he was entitled for ryotwari patta u/s 11 of the Act. In the said order, it is

further mentioned that the remaining extent in Survey No. 1061 may be treated as "parai" poramboke. Thereafter, the petitioner filed a revision

petition before the Director of Settlement, praying for a direction to the Assistant Settlement Officer, Madurai to take up a statutory enquiry u/s

10(a) of the Act (XXVI of 1948) and after excusing the delay in presentation of the case in view of the circumstances explained by him in the

affidavit filed along with the petition. His case was that he was never aware of the registry of the land as "parai" poramboke, and that he had been

in possession and enjoyment after putting up the superstructure. The Director of Settlement by an Order, dated 29th January, 1982, held that the

revision petition against the final settlement enquiry order should have been filed within 30 days from; the date of publication of the same and since

the final settlement enquiry order was published on 10th September, 1960, the petition filed on, 29th August, 1981, after a lapse of 21 years

cannot be entertained. Against the order of the Director of Settlement, a revision petition was filed before the Commissioner of Land

Administration, Chepauk, who held that the Director of Settlement has rightly rejected the claim on the ground of limitation and that there are no

valid reasons to interfere with the order of the Director of Settlement. It is against these orders, the present writ petition has been filed praying for

the issue of a writ of certiorari and for a direction to hold an enquiry u/s 11 (a) of the Act.

2. The allegations in the affidavit do not show that the land was used for agriculture purpose or that it is a cultivable land. Therefore, it should be

treated as non-ryoti. The allegations in the affidavit), which has also not been disputed, also go to show that the petitioner and his predecessor-in-title had been in possession of this non-ryoti land and : in each this was brought to sale when the property was in possession of the predecessor-in-title of the petitioner in the execution proceedings in O.S. No. 142 of 1925 on the file of the District Munsif, Ambasamudram. In the circumstances, we have to hold that it is a non-ryoti land, in respect of which the pre-decessor-in-title of the petitioner was admitted by the landlord to possession. Such land will have to be dealt with u/s 19(4) of the Act (XXVI of 1948). If during the settlement enquiry, the land had been registered as "parai poramboke" action should have been taken u/s 19(A) of the Act either by the petitioner for grant of patta subject to such terms as may be specified or by the department for eviction of the petitioner or his predecessor-in-title as a person not entitled to be allowed to remain in possession. Since no action was taken in this regard, either against the petitioner or his predecessor-in-title, the petitioner's allegation that he was not aware of the final settlement enquiry or the publication of the same till the Revenue Department sought to interfere with his possession appears to be correct and acceptable. Both the Director of Settlement and also the Commissioner of Land Administration did not deal with these specific allegations in the light of the fact . I may also mention that no period of limitation had been prescribed for filing an application u/s 19(A) of the Act and therefore the Direction of Settlement, in view of the fact that the petition related to a non-cultivable land in an estate should have dealt with the same u/s 19(A) of the Act and not u/s 11 though the petition (mentions the provision as Section 11 of the Act. If the petition is taken as one u/s 19(A) of the Act, there being- no limitation, it could have been dealt with by the Director of Settlement on merits. Accordingly I consider that it is necessary to give a direction to the Director of Settlement to consider the application as one filed u/s 19(A) of the Act and dispose of the same on merits after issuing a notice to the petitioner calling upon him to produce the relevant records and evidence establishing his claim for grant of patta under that Section 19(A). The orders of the Director of Settlement and the Commissioner of Land Administration are set aside and the matter is remanded to the Director of Settlement for fresh disposal in accordance with the observations made above. Accordingly, the writ petition

is allowed. No costs.