

(2012) 03 MAD CK 0028

In the Madras High Court

Case No : Writ Petition No. 22761 of 2011

Lakshmiammal, B.T. Nagarajan @ Annaiah and T. Sundararaj	APPELLANT
Vs	
The District Collector, Krishnagiri District and Others	RESPONDENT

Date of Decision : 30-03-2012

Acts Referred:

Constitution of India, 1950 — Article 226
Tamil Nadu Patta Pass Book Act, 1983 — Section 10, 14

Citation : (2012) 3 CTC 156

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : A. Rajesh Kannaa, for the Appellant; P. Karthikeyan, for the Respondent

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The Petitioner has approached this Court with the prayer for issuance of a Writ in the nature of Mandamus, directing

the Respondents 1 to 3 to consider the Petitioner's representation dated 08.02.2011 and direct the Respondents 1 to 3 to cancel the Patta, issued

in favour of the Respondents 4 to 9. In support of the Writ Petition, it is pleaded as under:

(1) I am the 2nd Petitioner herein and I am well acquainted with the facts and circumstances of the case. I am swearing this Affidavit for my behalf

and on behalf of other Petitioners also. The Petitioners are all the legal heirs of the deceased Tirumalappa.

(2) I respectfully submit that my great grandfather Mr. Thimmaiah and his wife, Smt. Venkattamma had jointly executed a gift deed in favour of

their grandsons namely, Thirumalappa and Gopalappa by appointing their son, Guruappa, my grandfather as guardian in respect of a total extent of

19.46 acres of agricultural land under document No. 1154/1964 dated 16.04.1964, comprised in original Survey Nos. 829/A, 829/B1, 612/A3, 612/C1, 612/C2, 612/C3, 824/A & 824/C2 in Bairamangalam Village and Post, Denkanikotta Taluk, Krishnagiri District. Since the date of the execution of the said Gift Deed, Thirumalappa and his brother Gopalappa became the absolute owners of the entire properties of the above cited items. Thirumalappa was found dead due to his illness and mental disorder and as a result of the same his family has undergone tremendous difficulties. In the meantime, Gopalappa also died, leaving all the immovable properties.

(3) I humbly submit that it was during this time that the Fourth Respondent had with a evil design to grab the ancestral properties belonging to them, illegally obtained UDR patta in their name during the time of resurvey made in 1984-1985 in respect of 6.12 acres of land comprised in original Survey Nos. 829/A & 829/B1 respectively measuring 2.78 and 3.34 acres out of the entire extent of 19.46 acres of land which was totally inherited by virtue of the Gift Deed executed by Thaimmaiah in favour of Thirumalappa and Gopalappa, who were his sons.

(4) I further submit that they are having clear title and ownership to the property from 1964, the time of the execution of the Gift Deed and even prior to that viz., from the time when Thimmaiah purchased the entire property through valid sale deeds in 1941. The original Survey Nos. 829/A & 829/B1 are later on sub-divided on the basis of the illegal documents created by the 4th Respondent into sub-divisions as Survey Nos. 829/B1 A1-1.84 acres, 829/A2-0.23 acre, 829/B1, B1A-0.05 acre, 829/B1 B-0.50 acre, 829/B1 and 9.45 acre, 829/AB-0.10 acre, 829/A1A-2.12 acres, 829/B1 and B1A1-0.50.

(5) I further submit that the 4th Respondent in the absence of any title or ownership in the properties in his favour had managed and manipulated to get UDR Patta by illegal and foul means during the time of resurvey of land by making use of the opportunity that no responsible person was available in my family having got the UDR Patta by illegal means, that the 4th Respondent had illegally obtained a Deed of Partition among Respondents 4 to 8 family members under document No. 5468/1987 dated 03.11.1987, registered in the Sub-Registrar Office at Hosur and on

the basis and strength of the said manipulated illegal and foul document, the 4th Respondent sold the said land measuring 6.12 acres along with the Respondents 5 to 8 who are wife, son and daughters to and in favour of the 9th Respondent who obtained illegal and unauthorised entry into the property.

(6) I further submit that the Respondents 4 to 8 have no title or ownership in the properties and so they have no authority or right to convey the property and whereby the 9th Respondent get no right or title over the property.

(7) I further submit that though illegally Patta was obtained by the A.M. Krishna Reddy in his name and subsequently an illegal Settlement Deed

was executed by his legal heirs they did not have any title or ownership in the land and we are the absolute owner and possession and enjoyment

of the same further we have also addressed several representation to the Respondents 1 to 3 herein request to cancel the UDR Patta stand in

favour of the other Respondents 4 to 9. Finally, on 08.02.2011 we have sent a representation to the Respondents 1 to 3 but so far our request

was not yet considered by the said authorities.

(8) I further submit that we have also sent a lawyer notice dated 27.10.2007 to Respondents 4 to 9 herein. We approached the Respondents 1 to

3 apart from that they never come forward to consider my representation dated 08.02.2011. Now, the Respondents 4 to 9 herein continuing to

alienate the said properties based upon the Patta which was obtained by them in an illegal manner. Hence, without any other alternative, I am

approaching this Court by invoking this jurisdiction under Article 226 of the Constitution of India for appropriate relief otherwise, I will be put to

irreparable loss and hardship.

2. The Writ is totally misconceived and is nothing misuse of process of Court. The grant of Patta is governed by a statute i.e. Tamil Nadu Patta

Pass Book Act, 1983. The Tahsildar is the Competent Authority under Rule 3 of the Act to issue Patta or cancel it, in case, it is illegally granted.

3. The remedy with the aggrieved party to either move for cancellation u/s 10 of the Tamil Nadu Patta Pass Book Act, or in the alternative, to file

an Appeal before the Revenue Divisional Officer under Rule 14 of the Act.

4. The decision of the statutory authority is further subjected to Revision. Section 14 of the Act further lays down that the parties aggrieved by the

decision of the authorities under the Act can file a Civil Suit.

5. In spite of clear provisions of law and number of decisions by this Court, the practice of making representation to the Respondent No. 1 then

coming to this Court is still continuing. The District Collector, the Respondent No. 1 is not Competent Authority under the Act to deal with

issuance of Patta or its cancellation. Therefore, prayer made to act, against statute is not permissible in law, as this Court in exercise of Writ

jurisdiction cannot issue direction against provisions of statute to direct the Collector to deal with representations filed for grant or cancellation of

Patta.

No merit, dismissed.

No cost.