

(2010) 12 MAD CK 0030
In the Madras High Court
Case No : Writ Petition No. 28578 of 2010

S. Gunasekaran	Vs	APPELLANT
The Assistant Settlement Officer (North) and The Tahsildar		RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Citation : (2010) 12 MAD CK 0030

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : N.R. Chandran for R. Muthukkannu, for the Appellant; K. Balasubramanian, Special Government Pleader, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing on behalf of the Petitioner, as well as the learned Counsel appearing on behalf of

the Respondents.

2. It has been stated that the land comprised in Pymash No. 820/A had, originally, belonged to T. Chengalvaraya Mudaliar, son of Thangavelu

Mudaliar, who had purchased the same from Sundrammal and others, by way of a registered sale deed, dated 7.4.1951, bearing document No.

1147/1951, at the office of the Sub Registrar, Chenglepattu. T. Kamalammal, wife of Thirunavakarasu Mudaliar, had purchased the portion of the

property covered under the said sale deed, to an extent of 1 acre and 56 cents, by way of a registered sale deed, bearing document No.

1097/1954, dated 24.4.1954. Since then, T. Kamalammal had been in continuous possession and enjoyment of the said property. she had died

intestate, on 21.7.1997, leaving behind her only legal heir T.K. Leelavathi. After the demise of T.K. Leelavathi, her legal heirs, namely, S.

Gunasekaran, the Petitioner herein, S. Udhayakumar, S. Mahindran, and S. Sujatha had been in continuous possession and enjoyment of the said property, as her legal heirs.

3. It has also been stated that the property in question had been, previously, classified as Nanja wet land and as a patta land, in the names of the predecessors-in-title. However, by virtue of the Tamil Nadu Estates (Abolition and conversion into Ryotwari) Act, 1948, the said land had been classified as "Anadhinam" (unclaimed land), by the revenue authorities concerned. Such an entry had also been made in the "A" register.

4. It has been further stated that the Petitioner and his predecessors-in-title had not lost their right or title, in respect of the land in question and that they have all the relevant records to prove their entitlement and for the grant of patta in their names, on the strength of such records and as they had been in continuous physical possession and enjoyment of the said land.

5. It has also been stated that in the S.L.R. copy 4 obtained from the office of the District Collector, Thiruvallur District, in respect of pymash No.

820/A, equivalent to survey Nos. 142/1 and 142/2, the name of Chengalvaraya Mudaliar, son of Thangavelu Mudaliar, is found in the right side

column, with the classification as "Ryot Punjai". However, an erroneous entry had been made in the S.L.R., by the revenue authority concerned, in

reference D.O.S. Mu. Mu. No. F2/4222/68, dated 21.3.1968, stating that the claim made for the grant of patta had been rejected, as time barred

and that the land is lying as "Anadhinam". Therefore, an application, dated 2.8.2010, had been submitted by the Petitioner, to the first Respondent,

for the issuance of patta.

6. It has also been stated that the first Respondent, in view of the incorrect entries made in the S.L.R., without proper verification and without due

consideration of the issues involved in the matter, had rejected the said application, by his order, dated 12.10.2010. The Petitioner had sent a

petition, on 16.10.2010, for reconsideration of the order, dated 12.10.2010, in the light of the decisions of this Court, made in respect of similar

issues, which had arisen before it. However, the first Respondent had rejected the petition, dated 16.10.2010, mechanically, by his order, dated

26.10.2010, without considering the merits of the matter. The first Respondent had rejected the petition, dated 16.10.2010, stating that the land in

question is classified in the revenue records as "Anadhinam", the petition is belated in nature and that a similar request had been rejected earlier.

No opportunity had been given to the Petitioner to substantiate his claim. Further, the impugned order of the first Respondent, dated 26.10.2010,

is arbitrary, illegal and void, as it is contrary to the principles of natural justice and the earlier decisions of this Court passed in respect of similar matters.

7. Mr. N.R. Chandran, the learned senior counsel appearing for the Petitioner had submitted that even for rejecting the appeal on the ground of

delay, the first Respondent ought to have given an opportunity of hearing to the Petitioner, so as to enable him to satisfy the first Respondent, with

regard to the maintainability of the appeal, by giving proper explanation for the alleged delay in filing the said appeal. Since, such an opportunity

had not been given to the Petitioner, the impugned order of the first Respondent, dated 26.10.2010, is liable to be set aside, as being contrary to

the principles of natural justice.

8. The learned Counsel appearing for the Respondents had not been in a position to show, by producing the relevant records, that a notice had

been sent to the Petitioner, giving him an opportunity of personal hearing, before the first Respondent had passed the impugned order, dated

26.10.2010. Therefore, in view of the facts and circumstances of the case, and as the first Respondent had passed the impugned order, dated

26.10.2010, without giving an opportunity of hearing to the Petitioner, the said order is set aside, remitting the matter back to the first Respondent

to pass appropriate orders thereon, on merits and in accordance with law, after giving an opportunity of personal hearing to the Petitioner to

substantiate his claims, including the issue of delay in agitating the matter, by producing the necessary records, within a period of eight weeks from

the date of receipt of a copy of this order.

9. The petition is disposed of accordingly. No costs.

Connected M.P. No. 1 of 2010 is closed.