

(2009) 12 MAD CK 0110
In the Madras High Court
Case No : Writ Petition No. 68 of 2005

S. Kulanthaivel

APPELLANT

Vs

The District Revenue Officer, The Special Commissioner and
Commissioner for Land Administration and Ayacutdhars of
Echangadu Kuttai and Agriculturalists of Singalathapuram

RESPONDENT

Date of Decision : 03-12-2009

Acts Referred:

Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 — Section 11,
12, 13, 14A, 15

Citation : (2009) 12 MAD CK 0110

Hon'ble Judges : Chitra Venkataraman, J

Bench : Single Bench

Advocate : V.K. Vijayaraghavan, for the Appellant; Malarvizhi Udayakumar, Spl.
G.P. - R1 and R2 and R. Subramanian, - R3, for the Respondent

Final Decision : Allowed

Judgement

Chitra Venkataraman, J.—The Petitioner herein seeks a writ of certiorari to quash the order dated 20.12.2004 made by the second Respondent reversing the order of the first Respondent dated 27.5.1998. The challenge to the said proceedings is on the ground that the second Respondent had failed to take into account the report of the field staff and other revenue officials. It is further stated that the Petitioner had title to the property, which the second Respondent had ignored. The patta was granted to the Petitioner on 27.5.1998 and the lands are under the cultivation of the Petitioner. Consequently, the proceedings of the second Respondent suffers from material illegality deserving to be set aside by this Court.

2. The Petitioner's mother, one Pavayee Am-mal, purchased an extent of 7.33 acres of land out of a total extent of 8.87 acres of land in Singalanthapuram Village in Rasipuram Taluk under Sale Deed dated 11.6.1955. The lands in question were sold by the legal heirs of one Palani Naickkan. Eversince the

purchase, the lands were cultivated continuously by raising punja crops. However, when the village had been taken over by the Government under the provisions of the Tamil Nadu Estate (Abolition and Conversion) Act 26 of 1948, an extent of 6.40 acres in S. No. 11 was classified as Kuttai Poramboke under the settlement proceedings, introduced in the year 1950.

3. Admittedly, during the settlement proceedings, the Petitioner's mother did not obtain patta for an extent of 02.84 cents in S. No. 11. The result is, in the settlement proceedings, the said area was marked as Tank Poramboke. Realising that patta had not been granted to the above-said lands, the Petitioner applied for grant of patta before the first Respondent and sought for re-classification of entries made in the Revenue Registers. The Petitioner produced necessary documents of title before the District Revenue Officer. By proceedings dated 27.05.1998 in Reference No. Ni. Mu.17979/1998/L-2, the District Revenue Officer granted patta to the Petitioner for the lands comprised in S. Nos. 11/2 and 11/3 measuring 0.23.0 Hectares and 0.09.0 Hectares respectively. The Petitioner's family members are in continuous occupation, cultivating the same with punja crops.

4. The contention of the Petitioner is that the lands in Survey Nos. 11/2 and 11/3 in the village are never a Tank Poramboke nor suffering inundation to be called either as a Tank or as water spread area. In these circumstances, the reliance placed by the second Respondent on the Survey Land Register rejecting the claim of the Petitioner, is totally unsustainable.

5. Learned Counsel appearing for the Petitioner invited my attention to the provisions of the Act, particularly to Sections 315 and 316 of the Estate Abolition Act, to submit that when S. No. 11 was inspected by the District Revenue Officer, he noted the cultivation of crops and that the predecessors of Pavayee Ammal and her successors-in-interest, including the Petitioner, are in continuous ownership and enjoyment of the property. On inspection, the entire area was noted as agricultural lands and not a Kuttai, as noted in the revenue records, there being no access to water flow. Hence, going by G.O. Ms. No. 1300, Revenue dated 30.4.1971 and Sections 49 and 74 of the the Tamil Nadu Estate (Abolition and Conversion) Act 26 of 1948, the lands in question have to be re-classified as per the Field Map. He pointed out that the show cause notice issued by the second Respondent was only on two aspects, namely, that the time limit for seeking patta was over as early as 30.6.1975 as per G.O. Ms. No. 1300, Revenue dated 30.4.1971 and lastly extended by G.O. Ms. No. 589, C.T. & R.E., dated 14.5.1975; hence, the Petitioner's claim for patta could not be granted, it being time barred. Secondly, the criteria for grant of patta as per G.O. Ms. No. 1300 dated 30.4.1971 is one of continuous possession and enjoyment. The second Respondent took the view that no evidence is found as regards the continuous possession and enjoyment of the Petitioner and hence the orders of the first Respondent have to be set aside.

6. Learned Counsel for the Petitioner pointed out that the order of the second

Respondent dated 20.12.2004, however, travelled beyond these two grounds in holding that by reason of Section 14-A of the Amendment Act 49 of 1974 that the Revenue Authorities have no power to change the classification of lands made at the time of settlement, the orders passed suffer illegality.

7. Learned Counsel for the Petitioner referred to the decision reported in *Srimathi Saraswathi Bai, by power of Attorney Agent T.S. Srinivasa Rao Vs. The Chairman, Estates Abolition Tribunal and Another*, to impress on the fact that the description in the Government records is not conclusive of the issue as to the character of the land in granting the Ryotwari Patta. He pointed out that when there is proof of ownership and cultivation and the land is known to be a Ryotwari land since inception, the description as poramboke land is not conclusive of the character of the land in granting the patta. He further referred to the decision reported in 1998 Law Weekly 89 (*Mangathayi Ammal V.E.M. Sami*) that the basic principle of Estate Land Abolition Act is not to destroy the title of a land owner and that it is the bounden duty of the Government to effect a survey and settlement of the Estate to recognise the right of the land holder for a Ryotwari Patta and grant the same. A mere issue of limitation in getting patta does not otherwise result in the land owner losing his right to a Ryotwari Patta; that the land owner can obtain patta u/s 13 of the Act. He also referred to the decision reported in 2008 (4) Law Weekly 220 (*K. Balamurugan and 7 Ors. v. The State of Tamil Nadu and 6 Ors.*) as to the obligation of the State to strike a balance between sustainable development and environmental protection. He also referred to the Full Bench decision of this Court reported in 1998 (I) CTC 630 (*Srinivasan and six Ors. v. Sri. Madhyarjuneswaraswami Pattaviathalai*) to touch on the powers of the statutory authorities under the Inam Abolition Act, in support of his contention that the provisions of the Act do not have the effect of destroying the rights of a land owner and that the grant of patta is a pre-existing right, except in respect of communal or public property. To the same effect is the decision reported in 1985 Law Weekly 287 (*Abdul Kadir Rowther v. The State of Madras*). Referring to the decision reported in (1971) I MLJ 190 (*Kuppuswamy Odayar v. Narthangudi Panchayat*), Learned Counsel pointed out that the mere fact that in the re-settlement register, a particular piece of land has been described as poramboke land, by itself, would not establish the title of the Government to the land in question to hold it as a kuttai poramboke. In the above circumstances, the order of the second Respondent rejecting the claim of the Petitioner for a Ryotwari Patta has to be set aside and the order of the first Respondent be restored.

8. In short, Learned Counsel appearing for the Petitioner submits that the Petitioner is in cultivation of the lands continuously. The land being a Ryotwari land, there was no tank at any point of time existing therein. The fact that the classification had been made originally in the settlement proceedings as kuttai poramboke, does not, in any way, finally determine the character of the land to deny the Petitioner the claim for Ryotwari patta. The lands in question are in subdivision to S. No. 10. There are no rival claims to the land and the order of the District Revenue Officer dated 27.5.1998 had attained finality. Having regard to

the documents of title, which clearly point out that there was no kuttai, the title of the Petitioner to the lands cannot be in any manner denied.

9. Per contra, Learned Counsel appearing for the third Respondent has filed written submission as well as counter affidavit. The third Respondent claimed themselves as Ayacutdhars of Echangadukuttai and agriculturalists of Singalanthapuram Village and Bodinayakan-patti. They claimed that they had the irrigation facilities originally available from the tank. In the circumstances, they made a representation to the revenue officials to restore the tank to its original position. Challenging the claim of the Petitioner that the predecessors-in-title are the owners of an extent of 7 acres and 23 cents out of 8 acres and 87 cents under the sale deed dated 11.6.1955, the third Respondent states that the description of the land as poramboke cannot be denied. The existence of the tank even before the implementation of Act 26 of 1948 is proved by the partition deed in the third Respondent family in 1948. The third Respondent further pointed out that the land purchased by the Petitioner's mother in S. No. 10 was a Zamin land and patta was granted during the settlement proceedings in favour of the Petitioner's mother. The land in S. No. 11 was shown as Kuttai poramboke. The Petitioner is an encroacher on the Government land; consequently, the Special Commissioner for Land Administration had correctly rejected the revision. Hence, the claim of the Petitioner is outside the scope of G.O. Ms. No. 1300 Revenue Department dated 30.4.1971. The villagers have every right to use the water from the kuttai. Hence, they seek cancellation of the patta issued to the Petitioner.

10. It is further stated that even in the partition deed of the year 1946 under which the father of the deponent had his property partitioned, mentions about the kuttai as a boundary and the rights of the predecessors to draw water from Echangadukuttai. He pointed out that the encroached lands are communal lands, hence, the Government cannot grant patta.

11. Referring to the claim under G.O. Ms. No. 1300 dated 30.4,1971, the third Respondent states that the Petitioner has to satisfy the test as per Sections 11 to 14 of the Act. Questioning the Petitioner's reliance on the judgment reported in (1956) I MLJ 200 (Srimathi Saraswathi Bai, by power of Attorney Agent T.S. Srinivasa Rao v. The Chairman, Estates Abolition Tribunal, Madurai and another), the third Respondent states that the decision was with reference to a poramboke land and hence has no application to the facts herein.

12. Learned Counsel appearing for the third Respondent submits that the decisions relied on by the Petitioner are distinguishable on facts. In the circumstances, the Writ Petition has to be dismissed.

13. Learned Additional Government pleader appearing for the second Respondent supported the order of the second Respondent.

14. Heard Learned Counsel appearing for the Petitioner, learned Special Government Pleader appearing for the first and second Respondents, Learned

Counsel for the third Respondent and perused the written submissions made by the Learned Counsel for the third Respondent.

15. A reading of the various proceedings, particularly that of the District Revenue Officer, shows that the Petitioner presented a petition during Jamabandhi. Based on the representation, the District Revenue Officer made a field enquiry on 27.4.1998. The representation by the Petitioner was for a Ryotwari Patta to be granted in respect of Survey No. 11. The details of the field enquiry discloses that as per the 1960 settlement, Survey No. 11 of an extent of 6.40 acres in Singalanthapuram Village was registered as kuttai. The Petitioner's mother Pavayee Ammal had purchased the property under document No. 1358/1955 of an extent of 7.33 acres situated in Singalanthapuram Village in Rasipuram Taluk from the legal heirs of Palani Naicker. The sale deed describes these lands as cultivable lands.

16. The boundaries as given in the 1955 document are as follows:

17. It is an admitted case that the lands in question at the time of purchase was in absolute enjoyment of the Petitioner's mother. At the time when the village was brought under the Tamil Nadu Estate (Abolition and Conversion) Act 26 of 1948, settlement proceedings were undertaken in 1950 and an extent of 6.4 acres in S. No. 11 was classified as Kuttai Poramboke. Admittedly, during settlement proceedings, the Petitioner's mother was granted patta in respect of the following lands.

18. With the result, in the settlement that took place in 1960, an extent of 2.84 acres came to be classified as kuttai poramboke in Survey No. 11. The Government records also carried this entry. There is no denial of the fact by the Respondents that the subject property formed part of the purchase made by Pavayee Ammal as early as 1955. In the background of the said fact, the order passed by the first Respondent, namely, District Revenue officer in this regard assumes significance, particularly to the fact that the subject land is not a kuttai and there are cultivation carried on by the Petitioner, a fact which could not be ignored by the first Respondent too. It is relevant to note herein the observation of the first Respondent, the District Revenue Officer, which reads as follows:

19. It is stated in the said order dated 27.5.1998 that although the document of purchase by the Petitioner's mother reflected an extent of 7.33 acres as covered under the sale deed, yet, as per the settlement, she was granted patta only to an extent of 4.09 acres and as per the Estate Abolition Act and Ryotwari Act 1948, an extent of 2.48 acres, which was under the possession and enjoyment of Petitioner's mother, was not granted patta. It is observed that the land in Survey No. 11 in respect of which patta was sought for, was under the enjoyment of the Mitadhar and thereafter on a sale in favour of the said Pavayee Ammal and after her life time, her son - the Petitioner, continues to be in possession and enjoyment. In the circumstances, even though the Survey Land Register contains description of the lands in Survey No. 11 as Kuttai, yet, in fact, there is no kuttai

and the entire area is under cultivation. Apart from that, there is no source by which water could be flown, thus to call it as a kuttai or a pond. Persuaded by this field report, the District Revenue Officer directed that Ryotwari Patta be issued in respect of lands in S. Nos. 11/2 and 11/3 to an extent of 0.25 and 0.90 hectares in the name of the Petitioner herein.

20. The Special Commissioner, Commissioner for Land Administration, the second Respondent herein, in exercise of his suo motu powers, issued a show cause notice proposing to revise the order of the District Revenue Officer on terms that the District Revenue Officer had committed an error in granting patta in respect of S.F. No. 11, which was classified as Kuttai Poramboke during the settlement proceedings.

21. On notice, the Petitioner raised objection based on G.O. Ms. No. 1300, Revenue dated 30.4.1971. The third Respondent herein, who claimed themselves as Ayacutdhars of Echan-gadukuttai, were also heard by the second Respondent. The Petitioner states that the second Respondent had no authority to revise the order passed by the statutory authority after the lapse of time limit prescribed in G.O. Ms. No. 1300 dated 30.4.1971 and extended by G.O. No. 589 dated 14.5.1975. On considering the objections taken by the Petitioner, the second Respondent, however, confirmed the proposal, thereby set aside the order passed by the District Revenue Officer to restore the original entry in the "A" Register. Aggrieved by the same, the Petitioner had come before this Court.

22. Before going further into the correctness of the order now under challenge, we need to refer to the object of the Tamil Nadu Estate (Abolition and Conversion Act) 26 of 1948. In the decision reported in 1998 (1) CTC 630 (Srinivasan and six others v. Sri. Madhyarjuneswaraswami Pattaviathalai), the Full Bench of this Court pointed out that the main object and purpose of the Act is:

to abolish all the estates of the intermediaries like Zamin-dars, Inamdars, Jagirdars or under-tenure holders etc. and to convert all land-holdings in such estates into ryotwari settlements which operation in revenue parlance means conversion of alienated lands into non-alienated lands, that is to say, to deprive the intermediaries of their right to collect all the revenues in respect of such lands and vesting the same back in the Government. The enactment and its several provisions are thus intended to serve the revenue purposes of the Government, by way of securing to the Government its sovereign right to collect all the revenues from all the lands and to facilitate the recovery thereof by the Government and in that process, if necessary, to deal with claims of occupants of lands, nature of the lands, etc. only incidentally in summary manner and that too for identifying and registering persons in the revenue records from whom such recovery of revenue is to be made. The object of granting a ryotwari patta is also to enable holder thereof to cultivate the land specified therein directly under the Government on payment to it of such assessment or cess that may be lawfully imposed on the land. Section 16 is very clear in this behalf which imposes the liability to pay such ryotwari or other assessment imposed upon the land to the

Government by the patta-holder.

23. Realising the difficulties faced by the similarly placed land owners in getting the patta on time, G.O. Ms. No. 1300, Revenue dated 30.4.1971 was introduced. The preamble to the said Government Order refers to the various earlier Government Orders passed, wherein the Government took note of the difficulties faced by certain land holders who did not apply for Ryotwari Patta in time, but who would have got patta, if they had applied in time. In the circumstances, G.O. Ms. No. 1300 Revenue dated 30.4.1971, along with earlier Government Orders passed for public purpose has to be viewed as beneficial notifications issued by the Government, taking note of the practical difficulties experienced by certain land owners in applying for Ryotwari Patta in time. There is nothing on record from the side of the Respondents to contend that the Petitioner, or for that matter the Petitioner's mother, had applied for Ryotwari Patta during the relevant period of settlement.

24. On the admitted facts that the Petitioner's mother did not go for a Ryotwari Patta in time and given the fact that G.O. Ms. No. 1300 Revenue dated 30.4.1971 covers cases of defaulters like the Petitioner, the question of negating the right of the Petitioner, or for that matter his mother, who was a predecessor-in-title, does not arise. In any event, the question as to whether the various clauses therein are applicable to the facts of the case has to be seen.

25. Clause 3 of G.O. Ms. No. 1300 Revenue 30.4.1971 states that the Government had taken a decision that patta should be granted to persons who are in continuous possession and enjoyment of the land. In the circumstances, the Government had decided to grant patta in accordance with the instructions given therein in G.O. Ms. No. 1300 Revenue dated 30.4.1971. Sub-clause (1) of the said Government Order says that any person, who is in continuous possession and enjoyment of the land taken over by the Government under the Act, may apply for grant of patta in respect of the land to the Revenue Divisional Officer, in cases where the extent of such land does not exceed 5 acres of wet or irrigable dry or 10 acres of dry lands and to the District Revenue Officer-Collector in all other cases. After the usual enquiry and after satisfying himself that the Applicant is in continuous possession and enjoyment of the land, the Revenue Divisional Officer/District Revenue Officer/Collector may grant patta on such application. In cases where there are rival claims for the grant of patta in respect of the same land, in appropriate cases, the parties may be directed to obtain a declaration from the Civil Court that they are in continuous possession and enjoyment of the land. Clause 5, which is relevant to this case, states that in respect of cases where the land has been classified as Communal poramboke but on ground, it has been converted as dry or wet, on the Applicant showing continuous possession and enjoyment of the land, the appropriate authority may grant patta after following the prescribed procedure for changing the classification of the lands.

26. Learned Counsel for the Petitioner pointed out to the meaning of "Ryoti land"

as given under the provisions of the Act to mean a cultivable land, which does not include beds and bunds of tanks and of supply, drainage, surplus or irrigation channels.

27. For the purpose of this case, I do not find any need to go into this definition for the simple reason that the document relied on by the Petitioner of the year 1955 as well as the spot enquiry made by the first Respondent show that there is no existence of such tank. The schedule to the property also shows the tank only as one of the boundaries of the land in question. In the circumstances, given the fact that the land is in occupation and possession of the Petitioner and is in cultivable stage and in fact cultivation had taken place, the benefit of Clause 5 of G.O. Ms. No. 1300 Revenue dated 30.4.1971, consequently, enures to the benefit of the Petitioner.

28. Learned Counsel for the Petitioner rightly placed reliance on the judgment reported in 1990 II Law Weekly 478 (Mariabackiammal (deceased) v. The District Forest Officer) only to support his contention that once the lands are Ryotwari lands, it continue to carry the character on both circumstances before and afterwards; hence, have to be given their due weightage in the matter of understanding its character.

29. In the decision reported in Srinivasan and six others Vs. Sri Madhyarjuneswaraswami and five others, , a Full Bench decision of this Court, particularly paragraph 14, which was relied on by the Learned Counsel appearing for the Petitioner, assumes significance. This Court viewed that the Division Bench decision of this Court as well as the other decisions of this Court would support the view that the abolition laws do not destroy the pre-existence of the occupants except in respect of what are known as public or communal properties meant for common use and the grant of patta had always been considered as a recognition of their pre-existing rights. In the circumstances, the Full Bench of this Court viewed that the provisions relating to abolition and vesting of the properties do not have the effect of obliterating the pre-existing rights, if any, except in respect of public or communal properties. The said decision, hence, ensures that the character attached to the property remains undisturbed. Consequently, rightly the Petitioner contends that the description of the property mentioned in the 1955 document remains unaltered and in fact found to be so by the first Respondent that it is a Ryoti land and is under cultivation.

30. As rightly contended by the Learned Counsel for the Petitioner placing reliance on the decision reported in Srimathi Saraswathi Bai, by power of Attorney Agent T.S. Srinivasa Rao Vs. The Chairman, Estates Abolition Tribunal and Another, , the character of the property has to be seen not with reference to the entries in the survey register, which is not conclusive on the issue and the right to Ryotwari Patta has to be examined having regard to the materials to support the claim of the land owner to a Ryotwari patta and in accordance with the provisions of the Act.

31. A reading of the above judgment shows that the claim for issue of Ryotwari Patta has to be considered by the provisions applicable to the claims and not by a mere entry in the land register, which is not a conclusive proof to establish the character of the land. As observed in the decision of this Court reported in (1970) I MLJ 190 (Kuppuswamy Odayar v. Narthangudi Panchayat) that "when the extremes had been proved, those things which lie between are presumed", when the possession of the predecessors-in-title including those who had sold the same to the Petitioner's mother in the year 1955 and thereafter the subsequent treatment of the land as a Ryoti land at the hands of the Petitioner clearly proves the character of the land in usage and the authorities have also found as a matter of fact that the lands are under cultivation, the presumption herein is that irrespective of the entry in the Survey Register, the lands in question are Ryoti lands and not Kut-tai Poramboke. The decision of this Court in the above circumstances has a greater relevance particularly to the properties held by the Petitioner herein both as to the nature of ownership as well as to the enjoyment by the Petitioner herein ever since 1955, or for that matter, even prior to that date.

32. Learned Counsel for the Petitioner made particular reference to the decision reported in 1998 Law Weekly 89 (Mangathayi Animal v. E.M. Sami), wherein, on a question as to the rejection of the application from a land holder claiming Ryotwari patta, this Court pointed out referring to the judgment of this Court in an unreported decision in W.P. No. 1058 of dated 10th December 1960 and W.P. No. 900 of 1960 dated 10th April 1962 that the land owner's right to a Ryotwari patta was, by no means lost, merely because his application u/s 13 was rejected as time barred. This Court pointed out that in the event of Ryotwari Patta not being granted, the land owner will not have a right of appeal against such an order. Nevertheless, given the nature of land as a cultivable land in respect of which the land owner was entitled to Ryotwari patta, then, independent of any enquiry conducted by the Settlement Officer in the course of any proceedings before him contemplated u/s 15 of the Act, the Government owes a duty to the land owner to grant him the Ryotwari patta.

33. The effect of the decision, as referred to above, is irrespective of whether a claim was made for a grant of patta by a land owner, the character of the land as a Ryotwari land remains as it is either before or after the Act unless the holding pattern undergoes a radical change either by forces of nature, Act of God or of man. Secondly, the fact that the Petitioner like land owners have not approached the authorities concerned on time does not mean, the Government could, as such, take over the land as a poramboke without conducting an enquiry and survey. The duty cast on the Government is an inevitable one, that the Government has to go in the character of the land, which has to be surveyed and settled. If the survey conducted by the Government discloses that the item in question was one in respect of which the land owner was entitled to Ryotwari Patta, then, independent of any enquiry conducted by the Settlement Officer, in the course of any proceedings, the Government has to grant the owner, the

Ryotwari patta.

34. The law declared by this Court, in the circumstances, certainly go a long way in supporting the case of the Petitioner, that the second Respondent herein, reversing the order of the first Respondent, hence, merits to be set aside by this Court. The schedule describing the location of the land clearly proved the fact that the land in S. No. 11 is not a Kuttai or a tank and is only a Ryotwari land. There is hardly anything to show that a kuttai was converted into a cultivable land. The support drawn by the Petitioner from the decisions of this Court, as to the nomenclature in the Survey Land Register, hence, is not of any consequence, given the fact that the document of the year 1955 had not been, in any manner, challenged or a finding arrived at by the first Respondent to change the character of the land from a cultivable land. The mere fact that the Survey Land Register carries the classification of the land in S. No. 11 as "Kuttai Poramboke", per se, does not defeat the claim of the Petitioner, who is claiming Ryotwari Patta on the basis of the document of the year 1955.

35. There is hardly any reference in the order of the second Respondent to the document of the year 1955 which gives one of the boundaries to the property in S. No. 11 as "Echan-gadukuttai". In arriving at such a conclusion, the second Respondent had nowhere pointed out to the above-said document, which not only binds the Government but also any other party. As rightly pointed out by the Learned Counsel for the Petitioner, at no point of time, the Petitioner, or for that matter, the predecessor-in-title made any exclusive claim for drawing water from the kuttai or ownership over the kuttai. It is also relevant to point out that the Petitioner does not claim the tank bund as his property. All that he claimed is the land in S. No. 11, for which one of the boundaries is the kuttai. The fact that the survey number concerned has been classified in the Survey Land Register as "kuttai poramboke", in respect of which the Petitioner had no knowledge, hence, was sought to be rectified by resorting to the proceedings before the first Respondent. When on a personal inspection, the first Respondent/District Revenue Officer had found that there was no kuttai and the entire area covered under S. No. 11 is a cultivable land, as held by this Court, the sole reliance on the Survey Land Register by the second Respondent ignoring the factual features, hence, has to be held as not sustainable and consequently, the order of the second Respondent has to be quashed.

36. This leaves the question as to the objection by the third Respondent. Admittedly, the third Respondent represents Ayacutdhars of Echangadukuttai. The grievance of the third Respondent herein is that by granting patta to the Petitioner in respect of S. No. 11, the rights of the third Respondent to draw water from the Echangadukuttai is offended. Consequently, the Petitioner's prayer has to be rejected. As already pointed out, the Petitioner nowhere claimed any exclusive right to the Echan-gadukuttai. All that he prayed is for a patta to be granted in respect of S. No. 11 as given in the document of the year 1955. But the claim of the Petitioner was rejected by the second Respondent on the

ground of the entry in the Survey Land Register, which, admittedly, the Petitioner had not cared to correct, at the time when the settlement proceedings were drawn. Given the fact that when such exercise can be rectified as given in G.O. Ms. No. 1300, Revenue dated 30.4.1971, which grants an opportunity to an affected landlord to seek patta and thereby get his land registered in the survey register as Ryoti land, the stand of the Petitioner for a correction has to be accepted as in tune with the said Government Order. As far as the third Respondent is concerned, strictly speaking, except as a pro bono, they have no right or interest to obstruct the claim of the Petitioner for grant of Ryotwari Patta in his name. The stand of the third Respondent as an objector, hence, has to be totally rejected and if at all anybody has to have a grievance as regards the Petitioner's stand, it is only the Government and not the third Respondent. If the third Respondent has any grievance or difficulty in drawing water from the Kuttai, it is essentially a matter which the third Respondent has to take with the State, which has to protect the rights of the third Respondent. On the admitted fact that the Petitioner is not laying any claim over the kuttai either as an exclusive right for drawing water or any manner of ownership on the kuttai which he cannot claim, I do not find any ground to accept the plea of the third Respondent either as to its locus standi in questioning the right of the Petitioner or to support the order of the second Respondent that the subject land is a poram-boke land.

37. The only reason as to the impleading of the third Respondent as a party before the second Respondent was that the Ayacutdhars had given an objection for the grant of patta to the Petitioner. It may be noted that the third Respondent is not a rival claimant as regards S. No. 11 nor it has any interest in the property of the Petitioner. The partition deed on which they have placed reliance does not, in any manner, touch on the property of the Petitioner. In fact, even under this document, one finds Echangadukuttai shown as one of the boundaries of the properties, which was the subject matter of partition among the members of the family and the third Respondent group.

38. Be that as it may, as far as the Petitioner's contention is concerned, for the grant of Ryotwari Patta, all that the authorities need to see is the ownership of the Petitioner, character of the land and the nature and enjoyment of the Petitioner over the property. As already seen, given the fact that on an inspection by the District Revenue Officer, the lands are seen as a cultivable land and there was no kuttai in S. No. 11, the fact that one of the boundaries to S. No. 11 happens to be a kuttai, which does not stand in the way of recognising the right of the Petitioner, I have no hesitation in rejecting the plea of the third Respondent objecting to the grant of patta to the Petitioner. It may be noted that the Petitioner had also remitted kist over this property, which also amply proves the claim of the Petitioner.

39. In the circumstances, the Writ Petition is allowed, thereby the order of the second Respondent is set aside and the order passed by the first Respondent - District Revenue Officer stands restored. No costs.