(2005) 09 MAD CK 0024

In the Madras High Court

Case No : Writ Petition No. 3782 of 2005 and W.P.M.P. No. 3993 of 2005

S.V. Gandhi APPELLANT

Vs

The Collector and Another RESPONDENT

Date of Decision : 21-09-2005

Acts Referred:
Tamil Nadu Patta Pass Book Act, 1983 — Section 12, 13, 23, 3, 4

Citation : (2006) 1 LW 379 : (2005) 4 MLJ 504

Hon'ble Judges : S. Sardar Zackria Hussain, J;P. Sathasivam, J

Bench : Division Bench

Advocate : P. Jothimani, for the Appellant; Ambujam Selvamani, Special Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—The petitioner by name S.V. Gandhi, a resident of Soorappa Naickenpatti, Vilathikulam Taluk, Tuticorin District, has

filed the above writ petition as a Public Interest Litigation against Circular dated 9.8.2004 of the District Revenue Officer, Tuticorin/2nd

respondent herein which prescribes certain conditions/procedure for transfer of patta, intending to neglect the records maintained by the Village

Administrative Officers like Adangal Extracts, etc. He also prayed as a consequential relief directing the respondents to follow the procedure

regarding effecting transfer of patta in respect of agricultural lands transferred under registered documents in accordance with the (T.N.) Patta Pass

Book Act, 1983 and the (T.N.) Patta Pass Book Rules, 1987.

2. The case of the petitioner is briefly stated hereunder:

According to him, in respect of transfer of agricultural lands in the State of Tamil Nadu, provision is made to submit a transfer of patta application even while the documents of transfer like sale, exchange, mortgage, lease, etc. are registered in the Office of Registrar, to effect the transfer of

Patta simple the procedure is laid down under Act 4/1986 namely Tamil Nadu Patta Pass Book Act, 1983 and Rules framed thereunder, namely,

(T.N.) Patta Pass Book Rules, 1987. The said Act and Rules were in Tuticorin District till the impugned Circular issued by the 2nd respondent. As

per Section 5 of the Act, when transfer of lands effected under registered documents, at the time of registration of documents, the Patta Passbook

must be produced and registration can be effected only after the necessary fees to effect entries relating to the transfer of patta is paid. On

registration, the registering authority will report with the certified extract to the Tahsildar, who shall effect the change of fresh pass-book to the

transferee. The procedure for issuing fresh patta pass-book are enunciated under the Rules. Against the order of Tahsildar an appeal lies to the

Revenue Divisional Officer and the District Revenue Officer in the form of revision. The procedure contemplated under the Act and Rules show

that the transfer of patta would be made without any delay with an easy process, namely, payment of transfer charge by Court fee of Rs. 7 and the

time prescribed for issue of patta is 15 days. However, in respect of transfer of patta effects at the time of registration of documents called (SRPT)

has not been followed in Tuticorin District in spite of receiving the transfer charges in the form of Court Fees. The persons are compelled to

approach the authorities under direct transfer patta called DTR by paying further charges. Even under the Board Standing Orders, the procedure

contemplated were very simple for transferring the Patta in respect of the transfer of property under registered documents which was followed by

the statutory Act, namely, (T.N.) Patta Pass Book Act, 1983 and Rules framed thereunder. While so, the District Revenue Officer of Tuticorin

District, namely, the second respondent has issued the impugned Circular dated 9.8.2004 giving revised guidelines for the procedure to effect

transfer of patta both under SRPT and DTR on the basis of the implementation of computerisation of land records under online service of Tamil

Nilam, giving a totally diametrical procedure ignoring the basic documents maintained at the level of Village Administrative Officer opposed to the

Patta Pass Book Act and Rules made thereunder. The petitioner having retired as a Village Administrative Officer made a request to the respondents for withdrawal of the impugned circular, but they have not taken any steps; hence filed the above writ petition before this Court.

3. The second respondent-District Revenue Officer, Thoothukudi has filed a counter affidavit wherein it is stated that the subject Transfer of

Registry is dealt with in R.S.O.31 and the procedures prescribed therein are being followed in the Revenue Department for effecting transfer of

Registry. The title of a holding is transferred on the basis of registered documents arising out of sale, exchange, mortgage, partition, gift,

relinquishment, etc. The usual procedure so far followed was, on a request for transfer of registry either from a person or from the Sub-Registrar

after registration of a document, the application if it was for the whole field, would be sent to the Village Administrative Officer for verification on

the particulars furnished in the application with reference to the entries found in the village accounts. The Village Administrative Officer after

verification would submit a report stating the name of the present pattadar and the person in whose name the patta was to be transferred. The

Zonal Deputy Tahsildar after scrutiny of the report would pass orders transferring the patta in the name of the petitioner. In cases where only a

portion of land had been transacted, the application would be sent to the survey official who would prepare sub-division records and the Tahsildar

would pass necessary orders. The Government introduced a scheme called computerisation of Land Records Programme (Tamil Nilam) with an

object to ensure that land record data is fully computerised to use it for issue of copies of records of Rights as well as for faster processing and

modification of existing data, tamper proof land data to reduce land dispute, portability and easy accessibility of data, immediate issue of

computerised extracts of land records to the public transparent, public inter-face and reduce corruption. Under the computerisation of Land

Records Programme, the basic revenue records have already been computerised. The essential records like ''A'' register and Chitta maintained by

the Village Administrative Officer have been computerised and periodical updation carried out to ensure that the data is error free. The progress of

work under transfer of registry is being reviewed by the District Revenue Officer and the Special Commissioner and Commissioner of Land

Administration every month. With a view to streamline the process, the District Administration convened a meeting of officials of Revenue and

Registration Department and evolved a strategy to simplify the procedure which will ensure speedy disposal of petitions seeking transfer of registry.

The new system introduced is that the request for transfer of registry will be verified with the computerised data available in the Taluk Offices and

orders passed instantly. All this system, evoked a good response and considerable improvement was noticed in the disposal of transfer of registry

applications. The revised system implemented is very feasible, because the required data is readily available at the Taluk Office itself and there is

no necessity to collect the information from the Village Administrative Officer. The petitioner has tried to create a confusion by bringing in the

(T.N.) Patta Pass Book Act, 1983. The provisions of Act and rules framed thereunder have already been complied with and each land owner has

already been issued Patta Pass Book. The general public have expressed their satisfaction over the working of the revised procedure and

commendable progress has been made in the disposal of petitions requiring transfer of registry.

4. Heard learned Counsel for the petitioner as well as learned Special Government Pleader for respondents.

5. The only point for consideration in this Writ Petition is, whether the impugned Circular dated 9.8.2004 issued by the District Revenue Officer,

Tuticorin/2nd respondent herein is contrary to (T.N.) Patta Pass Book Act 1983 PPR 1987 and therefore is liable to be quashed ?

6. It is not in dispute that Tamil Nadu Patta Pass Book Act, 1983 (hereinafter referred to as ""the Act"") enacted by the State Legislature is in force

and applicable to whole of the State of Tamil Nadu. Section 3 of the Act speaks about issue of patta pass book, according to which, Tahsildar is

empowered to issue patta pass book to every owner in respect of land owned by him, on an application made by him. Various provisions of the

Act prescribe elaborate procedure for making application, acknowledgment by the Tahsildar or any of the officer and the scrutiny and ultimate

order to be passed by the Tahsildar. Section 4 says that entries in the patta pass book and the certified copy of entries in the patta pass book shall

be presumed to be true and correct until the contrary is proved, or a new entry is lawfully substituted thereof. As per Section 5, unless patta pass

book relating to transfer of any land is produced before the registering authority, no document such as sale, gift, mortgage, exchange, settlement or otherwise shall be registered by the registering authority. Section 6 makes it clear that entries in the patta pass book is a prima facie evidence of

title. Sections 12 and 13 prescribe remedy by way of appeal and revision to the authorities notified. Section 23 speaks about issue of patta pass

book for house site to the owner by the Tahsildar. (T.N.) Patta Pass Book Rules, 1987 (hereinafter called ""the Rules"") lay down elaborate

procedure to be followed. Revenue Divisional Officer and District Revenue Officer of the District concerned are appellate and revisional authority

respectively. It is the grievance of the petitioner, who claimed to be a retired Village Administrative Officer, that the impugned circular dated

9.8.2004, issued by the District authority, namely 2nd respondent has either taken away or dispensed with the elaborate procedure prescribed

under the Act and the Rules for issuance of patta pass book. It is also the grievance of the petitioner that the computerisation or on line service of

Tamil Nilam"" dispensed with the power of Village Administrative Officers who possessed basic documents with all particulars of agricultural lands

in villages. With reference to the above claim, Mrs. Ambujam Selvarani, learned Special Government Pleader by taking us through the impugned

circular of the second respondent, contended that the provisions of the Act and the Rules are very well in existence and the Revenue Authorities

invoke them strictly in respect of matters which came before them for grant/ change of patta or for sub-division. According to her, by the impugned

circular and making the process by computerisation, the time consumed for issuing patta is now reduced and also simplified the procedure, since all

the required data are stored in the computer, updated at a regular interval. She also contended that the impugned circular in fact, gives benefits to a

large number of applicants and no complaint complaining this procedure was received as claimed by the petitioner.

7. We have already referred to the relevant provisions regarding issue of patta pass book, presumption of correctness of entries, and making of

entries of registration of alienation or transfer in the patta pass book as well as appeal and revision. Though the petitioner has filed this writ petition

by way of public interest litigation, as rightly stated in the counter affidavit of the District Revenue Officer, Tuticorin and pointed out by the learned

Special Government Pleader, the provisions of the Act and the Rules have not been either dispensed with or taken away by introduction of computerisation. The impugned circular dated 9.8.2004, besides clarifying certain aspects, gave certain guidelines in respect of disposal of

applications for change of patta. By introduction of ""Tamil Nilam"" namely, computerisation of Land Records Programme, it ensures that land

record data is fully computerised to use it for issue of copies of records of Rights as well as for faster proceeding and modification of existing data,

tamper proof of data to reduce land dispute, portability and easy accessibility of data, immediate issue of computerised extracts of land records to

the public, which is transparent and reduced corruption. In the counter affidavit, the District Revenue Officer has stated that under the

computerisation of Land Records Programme, the basic revenue records have already been computerised. The preparation and issue of manual

copies of extracts of village accounts have been banned, and declared that only computerised extracts of land records will be valid. Thus,

according to the second respondent, the essential records like ''A'' Register and Chitta maintained by the Village Administrative Officer have been

computerised and periodical updation carried out to ensure that the data is error free. The progress of work under transfer of registry is being

reviewed by the District Revenue Officer and the Special Commissioner and Commissioner of Land Administration every month. At that stage, the

representation of the public relating to delay on the part of the Village Administrative Officer was noticed. In the counter affidavit it is also stated

that as the said system, evoked a good response and considerable improvement was noticed in the disposal of transfer of registry applications, the

district administration by a circular ordered the implementation of the revised procedure in processing applications for transfer of Registry.

8. The District Revenue Officer has also informed this Court that the revised system adheres to the laid down principles that are to be followed

while effecting transfer of registry as provided under the Act and the Rules. It is highlighted that because the required data are readily available at

the Taluk Office itself, there is no necessity to collect the information from the Village Administrative Officer. It is the claim of the respondents that

the provisions of the Act and the Rules have already been complied with and each land owner has already been issued patta pass book. Changes

arising subsequently are updated as and when the people/applicants approached for change in the entries. It is demonstrated before us that since

''A'' Register and Chitta have been computerised and the data are available in Taluk Office itself, orders are passed after verification of data in the

computer. We also satisfied that the circular issued by the second respondent is only administrative instruction to the officers dealing with transfer

of registry subject. The circular provides only guidelines to the officials processing the transfer of registry application. It is also brought to our notice

that the land owners in this State have been issued patta pass book as per the Act. It is also demonstrated before us that patta pass book is an

extract of Chitta in book form providing pattadar name, patta number, extent of holding, classification of land, land revenue fixed and

acknowledgment for receipt of land tax paid. It is not in dispute that as per the provisions of the Act, the patta pass book is a vital document to

prove the ownership of the land more so, it is an identity of the land owner. Any transaction of land involving registration, the patta pass book

should be produced to establish the ownership of the land covered under the transaction. However, the second respondent has clarified that the

procedure of submission of an application for transfer of registry arising out of a document registered, necessary orders are issued after verification

of the data in the Computer and changes carried out in the respective patta pass book.

9. The District Revenue Officer has also explained that periodical review meetings are conducted to ascertain the receipt and disposal of

applications received from the Registration Department. Though the petitioner has raised an apprehension that by the new method, namely, use of

Tamil Nilam, the basic documents maintained at the level of Village Administrative Officer have been ignored, the 2nd respondent has reiterated in

more than one place that the basic documents required for effecting patta transfer have already been computerised and the data readily available at

the Taluk Office itself, the practice of forwarding the application for such purpose to the Village Administrative Officer alone has been dispensed

with. In other words, it is the case of the respondents that the transfer of registry orders are issued basing on the computerised data available in

Taluk Office.

10. The respondents have also denied the allegations that new powers have been entrusted with the Revenue Inspectors. It is stated that no fresh

powers have been delegated to the Revenue Inspectors in processing patta transfer applications. The Revenue Inspectors who authenticate the

entries made in the Village Accounts on account of patta transfer orders have now been involved in the verification of computerised data available

in Taluk Offices. In para 10 of the counter affidavit, the second respondent specifically reiterated that even now, the patta transfer orders are being

carried out only by the Village Administrative Officers in the records maintained by them and the updation of data is done by authorized persons at

the Taluk office. As rightly explained by the second respondent, the circular instruction envisages only a simplified procedure to process the

transfer of registry applications for speedy disposal and to satisfy the demands of general public. The District Revenue Officer has said in more

than one occasions that the intention behind the issuance of an executive instructions in a circular is not to take away the powers of the Village

Administrative Officers and to confer any fresh powers on to Revenue Inspectors. It has been explained that the circular instructions are in no way

a hindrance to exercise their legitimate powers. The second respondent has demonstrated that in order to improve the working system relating to

the processing of transfer of registry application and to tone up the district administration to meet the expectations of the general public, executive

instructions have been issued and successfully implemented.

11. We are satisfied that the implementation of revised guidelines is not violative of statutory provisions as claimed by the petitioner. On the other

hand, as rightly pointed out, the revised guidelines prescribed in the circular help to process the transfer of registry applications speedily avoiding

unnecessary delay in getting reports from the Village Administrative Officers. On the other hand, it is the claim of the second respondent that

adhering to the existing instructions laid down in R.S.O.31, the circular paves the way for adopting e-governance in all administrative matters. As

rightly pointed out, inasmuch as the basic documents like ''A'' Register and Chitta have been computerised and the data readily available at Taluk

Office, the practice of forwarding transfer of registry applications to the Village Administrative Officers for report does not arise and the same has

rightly been dispensed with. However, it is the claim of the second respondent that periodical updation is being done in the computer. He has also informed this Court that after the introduction of the revised procedure, public get this request complied with in a time bound programme and no

representation from any corner regarding delay in issue of transfer of registry order has been received. On the other hand, according to him,

revised procedure has been widely welcomed by the public, and the data relating to village accounts are updated then and there which avoids a lot

of legal complications on land matters.

12. In the light of what is stated above, particularly the elaborate details furnished by the second respondent in his counter affidavit with reference

to the impugned circular and also considering the fact that the provisions of the Act and the Rules are being followed by use of Computers by

updating all the information from the Village Administrative Officers and others like Revenue Inspectors, and of the assertion of the respondents

that after introduction of ""Tamil Nilam"", applications for transfer of patta/ registry are being processed without delay, we hold that there is no basis

for the apprehension raised by the petitioner. We are satisfied that the writ petition has been filed on misconception, namely, after introduction of

Tamil Nilam"" i.e., Computerization of all revenue records and updating all the particulars, the provisions of the Act and the Rules are not being

followed. As observed earlier, there is no basis for the same and the Writ Petition is liable to be dismissed; accordingly dismissed. No costs.

Connected miscellaneous petition is closed.