

(2010) 12 MAD CK 0056

In the Madras High Court

Case No : Writ Appeal No's. 1376 and 2182 of 2010 and M.P. No's. 1, 1 and 2 of 2010

The Special Commissioner and Commissioner of Land
Administration and Others

APPELLANT

Vs

N. Nandhagopal Mudaliar and Others

RESPONDENT

Date of Decision : 14-12-2010

Acts Referred:

Citation : (2011) WritLR 44

Hon'ble Judges : Elipe Dharmarao, J;D. Hariparanthaman, J

Bench : Division Bench

Advocate : Malarvizhi Udhayakumar, Spl. Govt. Pleader, for the Appellant; R. Muthukumaraswamy, S.C. in W.A. No. 1376/2010 for A. Jenasenan, for the Respondent

Judgement

Elipe Dharma Rao, J.—These writ appeals are directed against the orders dated 13.04.2010 and 27.08.2010 made in W.P. Nos. 21236 of

2009 and 658 of 2005 respectively, wherein the claim made by the Petitioners therein/beneficiaries to quash the order of the Special

Commissioner and Commissioner of Land Administration, dated 21.12.2004 and the consequential orders of the District Revenue Officer,

Kancheepuram, dated 24.12.2004 and the Tahsildar, Chengalpet Talus, dated 28.12.2004, was allowed and the Tahsildar was directed to

consider the claim of the beneficiaries afresh by affording reasonable opportunity to them and by considering the documents already produced by

them, in the light of the earlier order passed by the then Special Commissioner dated 13.06.2001.

2. The brief facts of the case are as follows:

(a) The second Respondent in W.A. No. 2182 of 2010, who is a resident of Chennai, has made an application to the Special Commissioner and

Commissioner of Land Administration for issuance of patta in her favor for an extent of 132 acres in S. No. 41/3, Karungulipallam Village,

Chengalpattu Taluk, Kancheepuram District, after reclassification of the lands from "Anadheenam" to "Dry Patta". On the basis of the said

application, reference was made and a detailed report was received from the Assistant Settlement Officer, Thiruvannamalai, vide letters dated

25.01.2001 and 16.03.2001, wherein it is stated that Karungulipallam Village was not a Zamin Village and it was a Ryotwari Village and hence, it

was outside his jurisdiction. Thereafter, the District Revenue Officer, Kancheepuram, was requested to take action as per rules after verifying the

documents and records, vide letter dated 13.06.2001 of the Special Commissioner and Commissioner of Land Administration, pursuant to which,

the District Revenue Officer, Kancheepuram, as per order dated 25.04.2002, granted patta to the Respondents in W.A. No. 2182 of 2010 for

an extent of 60 acres each in S. No. 41/3 of Karungulipallam Village, Kancheepuram District.

(b). Subsequently, the District Collector, Kancheepuram, has investigated the said issue and filed a report dated 05.01.2003 to the Special

Commissioner and Commissioner of Land Administration, recommending him to review the order of the District Revenue Officer, Kancheepuram,

dated 25.04.2002, by initiating sue moto proceedings, since it was found out during the investigation that the orders granting patta in favor of the

Respondents in W.A. No. 2182 of 2010 were issued illegally and irregularly. It is also stated in the said report of the District Collector that the

lands measuring an extent of 269.29 acres comprised in S. No. 41 of Karungulipallam Village, were originally classified as "Kazhuvoli Poramboke

(Backwater), as per the Settlement Register of 1911 and at the time of UDR Scheme of the year 1985, they were sub-divided and registered as

Dry Patta Land measuring an extent of 26.60.0 Hectare in S. No. 41/1A, Road Poramboke to an extent of 02.64.5 Hectare in S. No. 41/2 and

Dry Anadheenam to an extent of 79.82.0 Hectare in S. No. 41/3. It is also stated in the report of the District Collector that the District Revenue

Officer, Kancheepuram, vide his proceedings dated 25.04.2002 has reclassified an extent of 120 acres of land comprised in S. No. 41/3 from

Dry Anadeenam"" to ""Dry"" and issued patta for 60 acres (24.26.0 hectare) each to the Respondents in W.A. No. 2182 of 2010 and since he has

no power to change the classification that was made during the Settlement in 1911 and subdivided at the time of UDR Scheme in 1985, his order

was illegal and irregular and hence, the District Collector requested the Special Commissioner and Commissioner of Land Administration for

cancellation of the order passed by the District Revenue Officer.

(c) On the basis of the report of the District Collector, Kancheepuram, and after reviewing the details available and after verifying the connected

records, a Show Cause Notice dated 24.01.2003 was issued to the beneficiaries by the Special Commissioner and Commissioner of Land

Administration as to why patta transferred to them should not be cancelled on the following grounds, viz.

i. Until patta was granted by the District Revenue Officer, the suit land was registered as ""Kaluveli Poramboke"" as per the 1911 Settlement ""A

Register and the UDR Scheme in 1985 also classified the suit land as ""Government Anadheenam"".

ii. According to the Survey, the suit land remained as ""Anadheenam"".

iii. The claim of the beneficiaries that the property is ancestral is not correct, since the land was registered as ""Kaluveli Poramboke"" during 1911

Settlement and ""Government Anadheenam"" during the UDR Scheme and has never been a patta land.

iv. The District Revenue Officer has passed orders against the rules.

(d) Against the aforesaid Show Cause Notice dated 24.10.2003, the beneficiaries have filed a writ petition in W.P. No. 4027 of 2003 before the

High Court and the same was dismissed as per order dated 24.04.2003 with an observation that the beneficiaries can raise their claim by filing

reply to the show cause notice before the Special Commissioner and Commissioner of Land Administration. Aggrieved by the said order, the

beneficiaries have filed a writ appeal in W.A. No. 1930 of 2003 and the same was also dismissed as per order dated 24.02.2004 with a direction

to the Appellants therein to respond to the Show Cause Notice issued by the Special Commissioner and Commissioner of Land Administration.

Accordingly, the beneficiaries filed their explanations dated 23.04.2004 to the Show Cause Notice dated 24.01.2003 and requested for personal

hearing. The case was posted on 16.11.2004 on which date, the counsel for the beneficiaries have filed written statements and additional

documents in support of their case on 19.11.2004 and the Zonal Deputy Tahsildar, Chengalpattu and Village Administrative Officer,

Karungulipallam Village, appeared and produced the relevant village records.

(e) The Special Commissioner and Commissioner of Land Administration, on hearing both sides and after taking into consideration the facts and

circumstances of the case, set aside the order dated 25.04.2002 passed by the District Revenue Officer, Kancheepuram, and directed restoration

of the classification of the land in respect of S. No. 41/3 of Karungulipallam Village, Chengalpattu Taluk, Kancheepuram District, in the ""UDR"" ""A

Register, to its original classification, by order dated 21.12.2004. Pursuant to the said order, the District Revenue Officer, Kancheepuram District,

issued orders for making necessary changes in the Village and Taluk Accounts regarding the lands in S. No. 41/3, Karunguzhipallam village,

Chengalpattu Taluk, Kancheepuram District, to an extent of 79.82.0 hectares as ""Kazhuveli Poramboke"" from ""Anadheenam"" , by order dated

24.12.2004, pursuant to which, the Tahsildar, vide proceedings dated 28.12.2004, made necessary changes in the Taluk and Village Accouts with

regard to the said lands.

(f). Aggrieved by the order dated 21.12.2004 passed by the Special Commissioner and Commissioner of Land Administration setting aside the

order of the District Revenue Officer, Kancheepuram, granting pattas in favour of the beneficiaries, the beneficiaries have filed a writ Petition in

W.P. No. 658 of 2005 seeking to quash the said order and direct the Tahsildar, Chengalpattu Taluk, to issue patta in their favour in respect of the

suit land.

3. Similarly, the Respondents in W.A. No. 1376 of 2010 represented by their Power Agent, Mr. D. Mohanraj, filed a petition dated 20.08.2009

before the Tahsildar, Chengalpet Taluk, requesting to issue patta in their favour in respect of the land in S. No. 41/3, 111, Karungulipallam Village,

Chengalpattu Taluk, Kancheepuram District. The Tahsildar, on examination of the village accounts, refused to issue patta, by order dated

03.09.2009, on the ground that the said land was classified as ""Kazhuveli Poramboke"" in the village accounts as per the proceedings of the Special

Commissioner and Commissioner of Land Administration dated 21.12.2004 and the consequential proceedings of the District Revenue Officer

dated 24.12.2004. Aggrieved of the same, the Respondents in W.A. No. 1376 of 2010 represented by their Power Agent, Mr. D. Mohanraj,

have filed a writ petition in W.P. No. 21236 of 2009. The learned single Judge, after taking into consideration the facts and circumstances of the

case, set aside the orders dated 21.12.2004, 24.12.2004 and 28.12.2004 passed by the Special Commissioner and Commissioner of Land

Administration, the District Revenue Officer, Kancheepuram District and the Tahsildar, Chengalpet Taluk, respectively and directed the Tahsildar

to consider the claim of the beneficiaries afresh by affording reasonable opportunity to them and also by considering the documents already

produced by them in the light of the earlier order passed by the Special Commissioner and Commissioner of Land Administration dated

13.06.2001 with regard to the suit land in S. No.41/3, within a period of twelve weeks from the date of receipt of a copy of that order.

4. Following the aforesaid order, W.P. No. 658 of 2005 filed by the beneficiaries, viz., Rajeswari and Vijayalakshmi, was also disposed of in

similar terms as that of W.P. No. 21236 of 2009.

5. Aggrieved by the aforesaid orders, the Government came forward with the present writ appeals, W.A. Nos. 1376 and 2182 of 2010, seeking

to set aside the orders made in W.P. Nos. 658 of 2005 and 21236 of 2009.

6. Heard the learned Special Government Pleader appearing for the Appellants and the learned Senior Counsel appearing for the Respondents in

W.A. No. 1376 of 2010.

7. It is the contention of the Appellants that the learned Judge failed to note that the order dated 13.06.2001 passed by the then Special

Commissioner and Commissioner of Land Administration was not in order and same had already faced a judicial review in W.P. No. 4027 of

2003 and W.A. No. 1930 of 2003 and this Court had concluded that the order dated 13.06.2001 was not at all an order passed by the then

Special Commissioner and Commissioner of Land Administration, but only a letter of correspondence addressed to the District Revenue Officer to

take appropriate action on the request of the beneficiaries. It is also contended that the District Revenue Officer, Kancheepuram, erroneously

granted patta in favour of the beneficiaries and on the basis of the report submitted by the District Collector, Kancheepuram, District, the first

Respondent took up suo motu review and concluded that the order of the District Revenue Officer dated 25.04.2002 was illegal.

8. We have gone through the entire materials placed on record. On a perusal of the records, it is seen that based on the application filed by the

Respondents in W.A. No. 2182 of 2010, for issuance of patta in their favour to an extent of 132 acres in S. No. 41/3 of Karungulipallam Village,

Kancheepuram District, reference was made and the District Revenue Officer, as per order dated 25.04.2002, granted patta in their favour. It is

also seen that originally, as per the letter of the District Collector, Kancheepuram, dated 05.01.2003, an extent of 269.23 acres of land comprised

in S. No. 41 of Karungulipallam Village was classified as ""Kazhuvoli Poramboke"" (backwater) as per the Settlement Register of 1911 and at the

time of UDR Scheme of the year 1985, the said lands were subdivided into Dry patta land (S. No. 41/1A), Road poramboke (S. No. 41/2) and

Dry Anadheenam (S. No. 41/3). It is also seen that the District Revenue Officer, Kancheepuram, though has no power to change the classification

that was made during the settlement year 1911 and at time of UDR Scheme of the year 1985, as per his proceedings dated 25.04.2002, has

reclassified an extent of 125 acres of the land comprised in S. No. 41/3 from ""Anadheenam"" to ""Dry"" and issued patta for 60 acres each to one

Rajeswari and Vijayalakshmi, Respondents in W.A. No. 2182 of 2010 and hence, the District Collector requested the Special Commissioner and

Commissioner of Land Administration to reconsider the order passed by the District Revenue Officer, based on which, the Special Commissioner

and Commissioner of Land Administration, after conducting a detailed enquiry and after verifying the connected records, issued a show cause

notice dated 24.01.2003 to the beneficiaries as to why the patta transferred in their favour should not be cancelled on the reasons that till patta was

granted to them, the suit land was registered as ""Kaluveli Poramboke"" as per the 1911 Settlement ""A"" Register and as ""Government Anadheenam

at the time of UDR Scheme in 1985; that till the issuance of patta, the suit land remained as ""Anadheenam""; that the claim of the beneficiaries that

the property is ancestral is not correct; and that the District Revenue Officer has passed orders against the rules.

9. On perusal of the records, it is also seen that against the Show Cause Notice dated 24.01.2003 issued by the Special Commissioner and

Commissioner of Land Administration, the beneficiaries filed W.P. No. 4027 of 2007 in the High Court and the same was dismissed by order

dated 24.04.2003 with an observation that the Petitioners can raise their claim by filing reply to the show cause notice before the Special

Commissioner and Commissioner of Land Administration, against which, W.A. No. 1930 of 2003 was filed by the beneficiaries and the same was

also dismissed by order dated 24.02.2004 and while dismissing the writ appeal, the High Court directed the beneficiaries to respond to the show

cause notice and pursuant to the same, the beneficiaries, as per notice dated 15.04.2004, were requested to file their explanations and accordingly,

they have filed their explanation on 23.04.2004 and the Zonal Deputy Tahsildar, Chengalpattu and Village Administrative Officer,

Karunguzhipallam Village have also appeared and produced the relevant village records.

10. It is also seen that the the Special Commissioner and Commissioner of Land Administration, after considering the contentions of both parties

and noticing that the main objects of the UDR Scheme were to convert the acre measurements into hectares in the village accounts, to transfer the

Registry to the existing land holders as on date after verifying the documents produced by them, to sub divide the fields and transfer the registry to

the individual persons if there are joint holders, to find out the encroachers in the Government Poramboke and to prepare a list of encroachment,

and also considering the fact the UDR authorities have no power to alter the classifications, boundaries, extent etc. of a ""Government Land"", came

to the conclusion that the classification mentioned in the UDR ""A"" Register is, prima facie, void as beyond jurisdiction. The Commissioner also held

that since the suit land was classified as ""Kazhuveli Poramboke (Backwater) at the time of settlement in the year 1911 which was reclassified as

Government Dry"" by the UDR authorities and hence, the contention of the beneficiaries that the term ""Anadeenam"" refers to private patta land is

misconstrued and patently incorrect as they only appear to be taking advantage of mistakes of officials rather than on the basis of the substantive

character of their claim. The Commissioner also held that a perusal of the classification of lands adjoining the Survey Number and of the village

map showed that these lands adjoin the Buckingham Canal and lands immediately to the north of this survey number in this village also bear the same ""Kazhuveli"" classification. The Commissioner further observed that the beneficiaries have no evidence to prove their possession and enjoyment of the suit land from the year 1936 to date and they have neither occupied nor owned and not even raised any crops till 2000. The Commissioner also observed that when the District Revenue Officer was directed by the then Special Commissioner and Commissioner of Land Administration, as per his letter dated 13.06.2001, to consider the claims of the beneficiaries as per possession and enjoyment and after verification of the records, the District Revenue Officer, without taking any pains to obtain reports from the Tahsildar and the Revenue Divisional Officer and without inspecting the land, simply stated in his report that the beneficiaries have produced documents of transfer of the suit lands in their support and the lands are reclassified as Punjai Anadheenam at the time of UDR Scheme and on that basis, there was some assignment made to some freedom fighters and others under RSO 15.

11. Considering the above stated facts and circumstances, it is seen that the Special Commissioner and Commissioner of Land Administration satisfied himself and came to the conclusion that the beneficiaries are seen to clearly lack any useful claims to title from 1941, if not from 1938 and have not produced any proof of subsequent years to support claim to title or enjoyment of any interest whatsoever and accordingly, set aside the order of the District Revenue Officer, Kancheepuram, as per order dated 21.12.2004, with a direction to restore the classification in the UDR ""A Register to its original classification in respect of the land in S. No. 41/3 of Karunguzhipallam Village. It is also seen that in compliance of the order passed by the first Respondent, the Revenue Divisional Officer, as per order dated 24.12.2004, directed the Tahsildar to make necessary changes in the Village and Taluk Accounts and consequently, the Tahsildar, as per order dated 28.12.2004, made changes in the Taluk and Village Accounts for the lands in S. No. 41/3 to an extent of 79.82.0 hectares in Karunguzhipallam village, Chengalpattu Taluk, Kancheepuram District from ""Anadeenam"" to ""Kazhuveli Poramboke"".

12. It is further seen that following the order dated 21.12.2004, the Special

Commissioner and Commissioner of Land Administration rejected the request of the beneficiaries in W.A. No. 1376 of 2010 by order dated 03.09.2009 for grant of patta in their favour with regard to the land in S.

No. 41/3, 111, Karungulipallam Village, Chengalpattu Taluk, Kancheepuram District. Aggrieved of the same, the beneficiaries have filed W.P.

No. 658 of 2005 contending that while passing the order dated 03.09.2009, the Tahsildar has not given an opportunity to the Petitioners. The

learned single Judge, after following the judgment of the Supreme Court reported in Committee of Management and Anr. v. Vice Chancellor and

Ors. (2009 [1] Supreme 101) and postulating under what circumstances the petition can be entertained and the order is passed in violation of the

principles of natural justice and in violation of the fundamental right, by way of giving an opportunity to the beneficiaries, set aside the order of the

Special Commissioner and Commissioner of Land Administration, against which, the Government came forward with the writ appeals.

13. The trouble started when the documents were created collectively by the officials to reclassify the land and subdivided the S. No. 41 as Dry

Patter Land (S. No. 41/1A etc.), Road Poramboke (S. No. 41/2) and Dry Anadheenam (S. No. 41/3). On a perusal of the materials, it is seen

that the Special Commissioner and Commissioner of Land Administration was right in holding that the Officers under the UDR Scheme had no

power to reclassify the land. The Commissioner, after satisfying himself and after giving opportunity to those two beneficiaries, passed the order

rejecting their claim of granting patta in their favour. The Commissioner also held that reclassification at the time of UDR Scheme is contrary to the

claim made by the beneficiaries and those two beneficiaries have no title to the property, as they have not produced any documentary evidence,

and hence directed the Revenue Divisional Officer to restore the reclassification of the land in S. No. 41/3 of Karunguzhipallam Village,

Chengalpattu Taluk, Kancheepuram District, in the UDR "A" Register to its original classification and accordingly, the subordinates of the

Commissioner have effected reclassification. When once the nature of the land or classification of the land is restored to its original classification, as

it was contrary to the UDR Scheme, any further claim made by the other beneficiaries is baseless.

14. For all these reasons, we confirm the order passed by the Special Commissioner and Commissioner of Land Administration dated 21.12.2004.

15. In the result, the orders passed by the learned single Judge in W.P. Nos. 21236 of 2009 and 658 of 2005 are liable to be set aside and they are, accordingly, set aside. The writ appeals are allowed. Though no stay order has been passed by this Court in M.P. No. 1 of 2010 in W.A.

No. 1376 of 2010, the Respondents have come forward to file a petition in M.P. No. 2 of 2010 to vacate the stay. Therefore, the same along with other connected M.Ps. are closed. No costs.