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**(2014) 11 MAD CK 0420**

**Madras High Court (Madurai Bench)**

**Case No:** W.P(MD) No. 18067 of 2014

Pushparaj

APPELLANT

Vs

The District Collector

RESPONDENT

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**Date of Decision:** Nov. 11, 2014

**Acts Referred:**

- Tamil Nadu Patta Pass Book Act, 1983 - Section 10, 11, 12, 13, 14

**Citation:** (2014) 11 MAD CK 0420

**Hon'ble Judges:** M. Venugopal, J

**Bench:** Single Bench

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**Judgement**

@JUDGMENTTAG-ORDER

M. Venugopal, J.

Heard both sides.

2. According to the Petitioner, Arulmighu Veeramakaliamman Temple is situated in S.F.No. 138/26 of Thurvar Village and the adjacent S.F.Nos. 138/38, 138/39, 138/25 and 138/10 of the said village measuring to an extent of 1.50 acres are enjoyed by the Kendayanpatti villagers while celebrating festival of Arulmighu Veeramakaliamman Temple from time immemorial.

3. The vacant places of the aforesaid survey numbers around Arulmighu Veeramakaliamman Temple are used by the devotees during festival time and on other occasions. The aforesaid places are used on the eve of Pongal celebrations for cooking pongal and worship of Arulmighu Veeramakaliamman Temple on the "Mattu Pongal" day. Added further, the aforesaid places are used for tying the cattle of the villagers on the "Mattu Pongal" day and also on the next day. The aforesaid places are also used for "Mattu Vedikkai". Apart from the above, the aforementioned places are used for distribution of food(Annadhanam)during festival time etc. The aforesaid places are used for congregation of devotees during festival days and also on other occasions.

4. According to the Petitioner, since some individuals had made endeavours to encroach into the aforesaid survey numbers, he and other villagers had filed a petition, dated 16.12.2011 to the First Respondent requesting him to remove the obstructions in S.F.Nos. 138/26, 138/38, 138/39, 138/25 and 138/10 of Thuvar Village. In pursuance to their representation dated 16.12.2011, the first respondent had also issued a memorandum in his proceedings in O.Mu.Ti4.35875/2011, dated 20.12.2011, directing the second respondent to pass appropriate orders as to the said survey numbers belonging to Arulmighu Veeramakaliamman Temple and to remove the obstructions of the individuals in respect of the aforesaid survey numbers.

5. Pursuant to the proceedings of the first respondent dated 20.12.2011, during last week of December 2011, the Second Respondent/Tahsildar, Kandharvakottai Taluk, Pudukkottai District came to the aforesaid survey numbers with Police Officials and removed the obstructions. Thereafter, he along with other villagers were informed by the Second Respondent that patta for the aforesaid land was issued in favour of the Temple Arulmighu Veeramakaliamman Temple in a short span of time. Even after making shuttling visit to the Second Respondent office by the Petitioner, the Second Respondent has not issued patta in favour of the said Temple Arulmighu Veeramakaliamman Temple in respect of S.F.Nos. 138/26, 138/38, 138/39, 138/25 and 138/10 of Thuvar Village. As such, he submitted a representation, dated 12.09.2014 before the Second Respondent and to Honourable Chief Minister's Cell through Registered Post and the Second Respondent acknowledged the same. Till date, his representation was not considered in the proper perspective.

6. The submission advanced on behalf of the Petitioner is that the Second Respondent failed to appreciate as per the Revenue Standing order 31(7), if any property is in possession and enjoyment of any person for more than 12 years, he is entitled to get patta.

7. Continuing further, it is represented on behalf of the Petitioner that even in the year 2011 itself, the first respondent issued memorandum, dated 20.12.2011 directing the Second Respondent to pass appropriate orders as to the S.F.Nos. 138/26, 138/38, 138/39, 138/25 and 138/10 of Thuvar Village belong to Arulmighu Veeramakaliamman Temple.

8. In effect, the plea of the Petitioner is that the Second Respondent has failed to see the non-consideration of his representation for granting patta in respect of the aforesaid survey numbers is an erroneous one.

9. It is to be borne in mind that Section 3 of the Tamil Nadu Patta Passbook Act, 1983 deals with "issue of patta pass book", Section 4 of the Act, 1983 refers to "presumption of correctness of entries in the Patta Pass- book". Section 5 of the Act enshrines "making of entries of registration of alienation or transfer in the Patta Pass-book". Further Section 6 of the Act deals with "entries in the Patta Pass-book to be prima facie evidence of title".

Also that, Section 10 of the Act, 1983 speaks of "modification of entries in the Patta Passbook". In fact, Section 11 deals with "person to furnish information". Moreover, Section 12 of the Tamil Nadu Patta passbook Act, 1983 deals with "appeal". Section 13 of the Act deals with "revision". Section 14 of the Act deals with "bar of suits".

10. Apart from the above, Rule 4 of the Tamil Nadu Patta Passbook Rules, 1987 under the caption of "procedure of receipt of application or information", Rule 5 speaks of "form of Patta Passbook". Rule 6 deals with "Record of Tenancy under Patta Pass-book".

11. One cannot brush aside the vested fact that Tamil Nadu Patta Pass- book Rules, 1987 enjoins of "fee for the Patta Passbook". Also Rule 8 of the said Rules deals with "fee payable to the Registering Authorities for making transfer, entries in the Patta Passbook. Rule 12 deals with "application for modification of entries in Patta Pass-book". Rule 13 enjoins "persons to furnish information to the Tahsildar". Further Rule 14 speaks of "appeal". Rule 15 enjoins "revision on application". From the above speculative aspects of the Tamil Nadu Patta Passbook Act, 1983 and the Rules made thereunder, 1987, it is categorically clear that the Tamil Nadu Patta Passbook Act, 1983 is a self-contained and inbuilt one. So also the rules in Patta Passbook Rules, 1987 made thereunder.

12. Be that as it may, it transpires from the typed-set of papers filed by the Petitioner that the Petitioner on behalf of the common public had addressed a representation dated 12.09.2014 to the Second Respondent/Tahsildar. It is not known thereafter as to whether the Petitioner had complied with other requisite formalities enshrined under the Tamil Nadu Patta Pass-book Rules, 1987.

13. In view of the fact that the relief sought for by the Petitioner in the present Writ Petition is only for passing of an order by this Court in directing the Second Respondent to grant patta in the name of Veerramakaliamman Temple in respect of S.F.Nos. 138/26, 138/38, 138/39, 138/25 and 138/10 of Thubar Village, Kandharvakottai Taluk, Pudukkottai District by considering his representation, dated 12.09.2014, this Court without going into the merits of the matter and not expressing any opinion one way or other, simpliciter, directs the Second Respondent to look into the representation of the Petitioner dated 12.09.2014 and to consider the same in a fair, free and dispassionate manner and to pass a reasoned order on merits(of-course after providing due opportunity of hearing to the Petitioner and others concerned) by adhering to the principles of natural justice, within a period of eight weeks from the date of receipt of a copy of this order. If the Second Respondent opines that the Petitioner is to furnish in a appropriate application seeking issuance of patta in the name of Arulmighu Veeramakaliamman Temple in respect of survey numbers concerned in the Writ Petition, it is open to the Second Respondent to direct the Petitioner to present the appropriate application in proper format by paying the necessary fees as prescribed by the Tamil Nadu Patta Passbook Rules, 1987 and to proceed further in the manner known to law and in accordance with law.

14. With the aforesaid directions, the Writ Petition stands disposed of. No costs.