

**Jayadambal and ors. Vs. the Estates Abolition Tribunal, Thanjavur, Now Represented by the Additional District Judge and ors.**

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**Court :** Chennai

**Decided On :** Apr-19-1973

**Reported in :** (1974)1MLJ250

**Appellant :** Jayadambal and ors.

**Respondent :** The Estates Abolition Tribunal, Thanjavur, Now Represented by the Additional District Judge and ors.

**Judgement :**

**N. S. Ramaswami, J.**

1. This writ appeal is against the judgment of Veeraswami, J. (as he then was) dismissing W.P. No. 133 of 1961. The writ was for certiorari to quash the order passed under Section 13 of Madras Estates (Abolition and Conversion into Ryotwari) Act (XXVI of 1948). The land in dispute is admittedly within an estate which had been taken over by the Government under the Estates Abolition Act. The contesting respondent filed a petition under Section 13 of the said Act for a patta for the land on the ground that it was pannai land. Swaminathan Vanniar, whose legal representatives are the appellants before us, contested that petition before the Assistant Settlement Officer, contending that the land was ryoti land, that he was a ryot entitled to a patta in respect of that land and that the petition

under Section 13 of the said Act for the grant of patta on the ground that it was private land should not be allowed. The Assistant Settlement Officer, after enquiry, came to the conclusion that the land in question was private land and not ryoti land and that the contesting respondents were entitled to patta for the same. Swaminatha Vanniar took the matter in appeal to the Estates Abolition Tribunal, but there also he did not succeed. Thereafter he filed the writ petition, out of which this writ appeal arises, for a writ of certiorari to quash the orders of the Tribunal and the Assistant Settlement Officer. Veeraswami, J. (as he then was) held that, on the evidence placed before the Assistant Settlement Officer the only conclusion possible was that the land was private land and that the case of Swaminatha Vanniar that it was ryoti land and that he was entitled to patta could not be countenanced.

2. In this appeal before us, the main contention urged by the appellants is that certain proceedings in a summary suit under Section 55 of the Madras Estates Land Act are res judicata against the respondents and that they cannot be allowed to contend in the present proceedings that the land is pannai land and not ryoti land. This contention was urged before the learned Judge who heard the writ petition also, but that contention has been rejected.

3. Swaminatha Vanniar was admitted into possession of the land in question in 1948 as a lessee. It was in 1952 that he applied to the Deputy Collector, Thanjavur, under Section 55 of the Madras Estates Land Act for a patta. Ultimately patta was granted, and an appeal by the opposite party to the District Court was not successful. The contention on behalf of the appellants before us is that the decision of the Deputy Collector, which had been confirmed by the District Court in the proceedings under Section 55 of the Estates Land Act is res judicata as against the contesting respondents regarding the question of the character of the land. It is contended that, when the Deputy Collector granted patta to Swaminatha Vanniar, the predecessor-in-title of the appellants before us, it must be deemed that he had decided that Swaminatha Vanniar was a ryot and that the land was ryoti land. It is further contended that the decision of the Deputy Collector, which had been confirmed by the District Court, Thanjavur, has become final and that it is not open to the parties to that dispute to re-agitate the question regarding the

character of the land. We are, however, unable to accept this contention of the learned Counsel for the appellants, Pollapalli Venkatarama Rao v. Musunnuru Venkayya (1954) 2 M.L.J. 1 has held that the decision of the Revenue Court as to a claim of occupancy right and the question whether particular lands are situated in an estate or not are not within its exclusive jurisdiction and that therefore it is not res judicata in subsequent civil proceedings. The Full Bench referred with approval to a Bench decision of this Court in Sri Rajah Satrucharla Sivaskandamraju v. Dondasi Venkandhora S.A. No. 786 of 1919 and Anr. Bench decision in Appa Rao v. Gurraju : (1920)39MLJ476 and concluded in the following terms (page 6) :

We agree with Spencer, J., that the dispute as to occupancy right and the question whether the lands are situated in an estate or not are not matters falling within the exclusive jurisdiction of the Revenue Court, and we differ with respect from Phillips, J.

In the decisions approved by the Full Bench the facts were that there were proceedings in the Revenue Court regarding the grant of patta in which incidentally the character of the lands was also decided by the Court. It was held in those Bench decisions that that question was not within the exclusive jurisdiction of the Revenue Court, that it may incidentally arise in the proceedings before the Revenue Court and that it was open to the civil Court to go into that question afresh. This view has been approved by the Full Bench. In the face of the decision of the Full Bench, we fail to see how the learned Counsel for the appellants can support the contention that the decision rendered by the Revenue Court regarding the character of the land has become final and that it is not open to the parties to that cause to reargue the question in subsequent proceedings.

4. Further, in the above said revenue proceedings the question regarding the character of the land had been specifically left open. It appears that the respondents before us did not put forward before the Deputy Collector the contention that the land in question was private land. When the matter was before the District Court in appeal, they sought to file an application for amendment of the pleadings and take a fresh plea that the land was a private land and that therefore Swaminatha Vanniar was not entitled to patta. The District Court disallowed the

prayer for amendment, leaving open the question regarding the character of the land. That being so, it is not right to contend that the decision of the Revenue Court in the proceedings under Section 55 of the Estates Land Act concluded the matter regarding the question of the character of the land.

5. Then, coming to the merits of the case, the learned Judge who dismissed the writ petition has concluded thus :

With reference to the evidence before it, and having regard to the treatment of the land throughout and the short term leases and the conduct of the defendants and their predecessors-in-title, it considered that the Assistant Settlement Officer had arrived at the correct conclusion that the land was proved to be pannai in character. The jamabandi accounts of certain faslis which were filed before the Assistant Settlement Officer described the land as a private land. This land formed part of a wider extent of land measuring about 5 velis which once belonged to the Junior Prince of Thanjavur. He sold the land in 1932 and eventually it came into the hands of the defendants by the right of purchase. There were, besides, the jamabandi accounts, lease deeds with surrender clauses. One of the witnesses examined in the proceedings under Section 13 deposed that the land was noted as Iruvaram in the Record of the Right Register. It is true that this expression Iruvaram may not by itself be conclusive as to the character of the land. But it is one of the factors which may legitimately be taken into account along with other circumstances. It seems to me therefore the Tribunal does not appear to me in error when it agreed with the Assistant Settlement Officer and held that the land was proved to be pannai. It follows that this finding will not only dispose of the writ petition, but also the second appeal.

6. The second appeal referred to in the above passage arose this way. After the termination of the proceedings under section 55 of the Estates Land Act, Swaminatha Vanniar, who had been dispossessed of the land, filed O.S. No. 275 of 1954 on the file of the Court of the District Munsif of Thanjavur. The suit was for possession on the ground that the land was ryoti land and that he as ryot was entitled to possession of the same. By the time the suit was taken up for trial, the proceedings under Section 13 of the Abolition Act (XXVI of 1948) had come to be

concluded by the Assistant Settlement Officer and the Estates Abolition Tribunal. As in those proceedings it had been held that the respondents before us, who were defendants in that suit, were entitled to a patta and that Swaminatha Vanniar, the plaintiff in that suit was not entitled to patta, the civil Court dismissed the suit holding that the land was not ryoti land but was only private land. An appeal to the Subordinate Judge by Swaminatha Vanniar was not successful. Then S.A. No. 1314 of 1960 was filed by Swaminatha Vanniar. He died during the pendency of the appeal and his legal representatives were brought on record. This second appeal was also heard by the learned Judge along with W.P. No. 133 of 1961. Along with the writ petition the second appeal was also dismissed.

7. The appellants before us had not really placed any evidence before the Settlement Authority in support of their claim that the land in question was ryoti land. The evidence was practically one way and the Assistant Settlement Officer was right in his conclusion that the land was private land. The learned Counsel for the appellants is not in a position to place his hands on any particular piece of evidence in support of their case that the land was ryoti land. The learned Counsel, however, contends that the land was originally ryoti and that once the land was ryoti it should be presumed to continue to be ryoti land. But there is nothing on record to show that the land was at any time ryoti. In any event, there is no ground at all to hold that the conclusion of the Assistant Settlement Officer confirmed by the Tribunal is vitiated on any ground known to law. The dismissal of the writ petition cannot therefore be seriously questioned.

8. The writ appeal fails and is dismissed with costs.

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