रे. दि. अपील नं २१/२०२६

EXH.15/D

मे. जिल्हा न्यायाधिशसो कोल्हापूर
यांचे न्यायालयात

रंगीन हल्लाप्प माने - अपेलन्ट
विरुद्ध
प्रशासक ग्रामपंचायत केर्ले - रिस्पॉडन्ट
व इतर

ORDER
SEEN

ASJ-2
24/07/26

Digitally signed by RAHUL VASANT UTPAT
Date: 2026.07.24 18:34:25 +0530

खालील रिस्पॉडन्ट तर्फे पुरशीस असे की

प्रस्तुत कामी खालील रिस्पॉडन्ट तर्फे आजरोजी पुढील सायटेशन मे कोर्टात दाखल करीत आहे.

1) Bombay High court (Nagpur Bench)
(2016) 5 AIR.BomR.158
(पान नंबर 1, 7)

2) कब्जेपट्टी (Kabjapatti) Not document of title (Provision)

म्हणून दिली पुरशीस असे

कोल्हापूर
ता २४/७/२०२६

मे. गा. [illegible]

रिपोर्टेबल नाही
दाखला ता २४/७/२०२६

India Law Library Web Version

Docid # IndLawLib/1034530

(2016) 5 AIRBomR 158 : (2016) 5 ALLMR 847 : (2017) 2 MhLJ 425

BOMBAY HIGH COURT (NAGPUR BENCH)

SINGLE BENCH

BHAGWAN KISAN WAGH — Appellant

Vs.

STATE OF MAHARASHTRA — Respondent

(Before : A.S. Chandurkar, J.)

Writ Petition No. 6466 of 2015

Decided on : 21-07-2016

- Constitution of India, 1950 - Article 14, Article 226

A. Land Laws — Gairan Land — Encroachment Regularisation — Government Policy — Vested Rights vs. Settled Expectation — Petitioners claimed regularisation of encroachment on Gairan land based on Government Resolution (GR) dated 28.11.1991, which allowed regularisation for encroachments made between 01.04.1978 and 14.04.1990 — Subsequent GR dated 12.07.2011, issued after Supreme Court's directions in Jagpal Singh (supra) to remove encroachments on public lands, changed the policy, stating such lands should only be used for public utility and not allotted to private individuals — Petitioners applied for regularisation under the old policy, but their applications were pending when the new policy came into effect — Held, petitioners merely had a "settled expectation" and not a "vested right" to regularisation under the 1991 GR; applications for regularisation must be decided based on the policy in force at the time of disposal, not at the time of application — Changes in policy, especially when serving public interest or based on judicial directives, override prior expectations — Therefore, the Collector rightly decided the applications in light of the 12.07.2011 GR. (Paras 3, 4, 6, 8, 9, 10)

B. Administrative Law — Natural Justice — Right to Hearing — Policy Change — Where there is a change in government policy concerning matters like land regularisation, and the new policy fundamentally alters the basis for relief sought, the absence of a hearing for applicants whose requests were

based on the prior policy may not be a fatal flaw — In this case, the petitioners' claim for regularisation under the 1991 GR was superseded by the 2011 GR, which mandated eviction of encroachers — Since the new policy effectively removed any possibility of regularisation, granting a hearing would have been an "empty formality" as there could be no other outcome than rejection of their applications — The decision to reject was based on supervening policy and judicial pronouncements, not on facts subject to dispute by the petitioners. (Para 11)

C. Precedent — Binding Nature — Conflicting Divisional Bench Orders — When considering a matter involving a subsequent Government Resolution (GR) issued based on Supreme Court directions, and a prior Divisional Bench order in a Public Interest Litigation (PIL) that did not consider the Supreme Court's verdict or the subsequent GR, a later Divisional Bench appropriately directs adherence to the Supreme Court's ruling and the subsequent GR — In this case, the order in R.V. Bhuskute (supra) referring to the 1991 GR without considering Jagpal Singh (supra) and the 2011 GR was noted, and the subsequent order in Bhaskar Bhagwant Dikkar (supra) rightly prioritised the Supreme Court's judgment and the 2011 GR, directing implementation of the new policy and recall of any regularisation orders inconsistent with it. (Para 7)

Counsel for Appearing Parties

Shri. P.S. Khubalkar & Shri. R.N. Ghuge, Advocates, for the Petitioners; Ms. T. Khan, Assistant Government Pleader, for the Respondent

Cases Referred

- Dharampal Satyapal Ltd. Vs. Dy. Commissioner of Central Excise Gauhati, (2015) 8 SCC 519
- Howrah Municipal Corpn. Vs. Ganges Rope Co. Ltd., (2004) 1 SCC 663
- Jagpal Singh Vs. State of Punjab, (2011) 11 SCC 396
- Madras City Wine Merchants' Association Vs. State of T.N., (1994) 5 SCC 509
- P.T.R. Exports Madras Pvt. Ltd. Vs. Union of India, (1996) 5 SCC 268
- State of Tamil Nadu Vs. M/s. Hind Stone, (1981) 2 SCC 205

Final Result : Dismissed

JUDGMENT

A.S. Chandurkar, J.(Oral)—Since common issues arise in all these writ petitions they have been heard together and are being decided by this common judgment.

2. Rule. Rule in each writ petition is made returnable forthwith and the learned counsel for the parties have been heard at length. For the sake of convenience the facts in Writ Petition No. 6466 of 2015 are being referred to.

3. The petitioner claims to be in possession of E Class land Gairan land since the year 1990. According to the petitioner, the respondent no.1 has issued Government Resolution dated 28.11.1991 in the matter of regularisation of encroachments of such lands. In the said Government Resolution a policy decision has been taken to regularise encroachments made between 01.04.1978 and 14.04.1990. According to the petitioner in terms of aforesaid Government Resolution steps were taken by the revenue authorities for regularising the encroachments. No objection was obtained from the Grampanchayat and recommendation for regularising the encroachment committed by the petitioner was submitted by the Sub Divisional Officer to the Additional Collector. Thereafter a demand of penalty towards regularising the encroachment was also made from the petitioner. However by order dated 09.10.2015 the Collector Buldhana rejected the application for regularising the encroachment committed by the petitioner. Being aggrieved by the aforesaid order the petitioner has challenged the same before this Court.

4. Shri. P.S. Khubalkar and Shri. R.N. Ghuge, the learned counsel for the petitioners submitted that Collector was not justified in rejecting the application for regularising the encroachment in question. According to them by virtue of Government Resolution dated 28.11.1991 the State Government had taken a policy decision to regularise encroachments made between 01.04.1978 and 14.04.1990. As the petitioners were covered by this Government Resolution, there was a vested right in the petitioners to have their encroachment regularised. The applications moved by the petitioners were required to be dealt with as per Government Resolution dated 28-11-1991.

It was submitted that the Collector was not legally justified in relying upon a subsequent Government Resolution dated 12.07.2011 for refusing to regularise the encroachment. It was submitted that the earlier Government Resolution dated 28.11.1991 had not been superseded and the said Government Resolution continued to operate. Relying upon the judgment of the Hon'ble Supreme Court in **Jagpal Singh and others v. State of Punjab and others (2011) 11 Supreme Court Cases 396**, it was submitted that while issuing directions to the State Government for preparing schemes for eviction of unauthorised occupants, the provision of issuing a show cause notice and brief hearing had been stipulated. In the present case without grant of any opportunity of hearing and merely by relying upon the Government Resolution dated 12.07.2011 the impugned order had been passed. Reference was also made to the order dated 28.03.2014 passed at the Principal seat in Public Interest Litigation No. 204 of 2010 (R.V. Bhuskute & Anr. v. State of Maharashtra & Anr.) wherein it was observed that steps should be taken as per Government Resolution dated 28.11.1991. It was therefore submitted that the impugned order passed without grant of any opportunity of hearing to the petitioners was bad in law.

5. Ms. T. Khan, learned Assistant Government Pleader for the respondents on the other hand supported the impugned order. She submitted that after considering the law laid down by the Hon'ble Supreme Court in Jagpal Singh (supra) the State Government had issued Government Resolution dated 12.07.2011. It was submitted that in the said Government Resolution there was no provision made for grant of any hearing to the illegal occupants before their eviction. She placed heavy reliance on the judgment dated 14.08.2015 in Criminal Application No. 516 of 2015 (Bhaskar Bhagwant Dikkar and others v. State of Maharashtra) wherein a Division Bench of this Court had issued directions to the State Government to take into consideration the judgment of the Hon'ble Supreme Court in

Jagpal Singh (supra) and implement Government Resolution dated 12.07.2011 by taking possession of Gairan lands. It was then submitted that the earlier Government Resolution dated 28.11.1991 stood superseded in view of the subsequent Government Resolution dated 12.07.2011. As there was no legal right in the petitioners to have the encroachment regularised and as there was no stipulation in the said Government Resolution of granting an opportunity of hearing, such opportunity could not have been claimed by the petitioners. In any event it was submitted that grant of any hearing to the petitioners was nothing but an empty formality in view of Government Resolution dated 12.7.2011. The learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in **Dharampal Satyapal Ltd. v. Dy. Commissioner of Central Excise Gauhati and others 2015(8) Supreme Court Cases 519** in that regard. As the petitioners were admittedly encroachers on Gairan land, they were liable to be evicted in view of Government Resolution dated 12.07.2011 which was a policy decision based on the judgment of the Hon'ble Supreme Court in Jagpal Singh (supra). It was therefore submitted that no useful purpose would be served even if a direction is issued to the Authorities to hear the petitioners in the matter. It was thus urged that the writ petitions were liable to be dismissed.

6. I have given due consideration to the respective submissions and I have gone through the documents filed on record. As per Government Resolution dated 28.11.1991 a policy decision was taken by the State Government to regularise encroachments made between 01.04.1978 and 14.04.1990. The manner in which such encroachments could be regularised was stipulated therein. In Jagpal Singh (supra) the Hon'ble Supreme Court noticed that various lands that vested in the grampanchayats had been encroached. It was noticed that various State Governments had permitted allotment of such lands to private persons and commercial enterprises on payment of some money. It was observed that such Government orders were illegal. In that background directions were issued to all State Governments to prepare schemes for eviction of illegal/unauthorised occupants of such land. It was observed that such schemes should provide for speedy eviction of illegal occupants after giving show cause notice and brief hearing.

Pursuant to this judgment, the State Government brought into effect Government Resolution dated 12.07.2011. The same was for the purpose of removal of encroachments on E-class lands. A policy decision was taken that in future such lands should be utilised only for implementing public utility services and for implementing the policies of the Central Government and the State Government. It was also resolved not to allot such lands to any individual or any private institution.

7. In R.V. Bhuskute (supra) the Division Bench of this Court while entertaining a public interest litigation in the matter of removal of encroachments issued directions to the State Government to publish a list of persons who were entitled to take benefit of Clause 10 of Government Resolution dated 28.11.1991. This order passed by the Division Bench was considered subsequently by another Division Bench in Bhaskar Bhagwant Dikkar (supra). It was observed that the order passed in R.V. Bhuskute (supra) did not refer to the judgment of the Hon'ble Supreme Court in Jagpal Singh (supra) as well as the Government Resolution dated 12.07.2011. The Division Bench thereafter proceeded to direct the State Government to implement the judgment of the Hon'ble Supreme Court in Jagpal Singh (supra) as well as the Government Resolution dated 12.07.2011. A further direction was issued to all Collectors in the State to recall any order of regularising any encroachment if

made under Clause 9(1) and 9(2) of Government Resolution dated 12.07.2011 and to take possession of such lands for grazing purpose.

8. It would be first necessary to consider whether the petitioners can claim a vested right for seeking consideration of their applications for regularisation of encroachments in terms of Government Resolution dated 28-11-1991. This would have to be considered in the light of the fact that when the applications for regularisation were pending, another Government Resolution dated 12-7-2011 indicating a change in policy came into effect.

The question whether an applicant would have a vested right to seek consideration of his request on the basis of the date when he had so applied has been considered by the Hon'ble Supreme Court in **Howrah Municipal Corpn. v. Ganges Rope Co. Ltd. (2004) 1 SCC 663**. In said case, an application for sanction for construction was made by a Company. As the sanction was neither granted nor refused within the prescribed period, the Company had approached the High Court in that regard. The High Court had directed the Municipal Corporation to consider grant of sanction subject to fulfilment of requirements. When the application for sanction was pending, the Building Rules were amended due to which the sanction as sought was not granted. In that background while considering the question as to whether any vested right had been created in favour of the Company despite subsequent amendment to the Building Rules, it was observed by the Hon'ble Supreme Court that with long usage the word "vest" has also acquired a meaning as "an absolute or indefeasible right." What the Company had was only a "legitimate" or "settled expectation" to obtain the sanction. The same did not create any vested right to obtained the sanction. The following observations in para 37 of the aforesaid judgment clarify the position.

"37.................... What we can understand from the claim of a "vested right" set up by the respondent Company is that on the basis of the Building Rules, as applicable to their case on the date of making an application for sanction and the fixed period allotted by the Court for its consideration, it had a "legitimate" or "settled expectation" to obtain the sanction. In our considered opinion, such "settled expectation", if any, did not crate any vested right to obtain sanction. True it is, that the respondent Company which can have no control over the manner of processing of application for sanction by the Corporation cannot be blamed for delay but during pendency of its application for sanction, if the State Government, in exercise of its rulemaking power, amended the Building Rules and imposed restrictions on the heights of buildings on G.T. Road and other wards, such "settled expectation" has been rendered impossible of fulfilment due to change in law. The claim based on the alleged "vested right" or "settled expectation" cannot be set up against statutory provisions which were brought into force by the State Government by amending the Building Rules and not by the Corporation against whom such "vested right" or "settled expectation" is being sought to be enforced. The "vested right' or settled expectation has been nullified not only by the Corporation but also by the State by amending the Building Rules, Besides this, such a "settled expectation" or the socalled "vested right" cannot be countenanced against public interest and convenience which are sought to be served by amendment of the Building Rules and the resolution of the Corporation issued thereupon."

From the aforesaid observations, it is clear that the petitioners merely had a "settled expectation" in the matter of regularisation of their encroachment under Government Resolution dated 28.11.1991 and not any vested right.

9. It is also equally well-settled that consideration of an application of the present nature would depend upon the provisions as are applicable on the date of disposal of the application. In case of a change in policy, the application would be liable to be dealt with in the manner and procedure that is prevailing on the date when such application is considered and decided. Reference in this regard can be usefully made to the following observations of the Hon'ble Supreme Court in :

(A) **State of Tamil Nadu v. M/s. Hind Stone and others (1981) 2 Supreme Court Cases 205** :

"While it is true that such applications should be dealt with within a reasonable time, it cannot on that account be said that the right to have an application disposed of in a reasonable time clothes an applicant for a lease with a right to have the application disposed of on the basis of the rules in force at the time of the making of the application. No one has a vested right to the grant or renewal of a lease dealt with in a particular way, by applying particular provisions. In the absence of any vested rights in anyone, an application for a lease has necessarily to be dealt with according to the rules in force on the date of the disposal of the application despite the fact that there is a long delay since the making of the application."

(B) **P.T.R. Exports (Madras) Pvt. Ltd. and others v. Union of India and others (1996) 5 Supreme Court Cases 268**:

"Grant of licence depends upon the policy prevailing as on the date of the grant of the licence. The court, therefore, would not bind the Government with a policy which was existing on the date of application as per previous policy. A prior decision would not bind the Government for all times to come. When the Government is satisfied that change in the policy was necessary in the public interest, it would be entitled to revise the policy and lay down new policy."

(C) **Madras City Wine Merchants' Association and another v. State of T.N. and another (1994) 5 Supreme Court Cases 509** :

"Legitimate expectation may arise

(a) if there is an express promise given by a public authority; or

(b) because of the existence of a regular practise which the claimant can reasonably expect to continue;

(c) Such an expectation must be reasonable. However, if there is a change in policy or in public interest the position is altered by a rule or legislation, no question of legitimate expectation would arise."

(emphasis supplied)

10. In the light of aforesaid legal position, it is crystal clear that the petitioners have no legal right whatsoever to insist for consideration of their applications for regularisation on the basis of Government Resolution dated 28.11.1991.

Though it is a fact that the applications moved by the petitioners were pursuant to the said Government Resolution, these applications were pending when the State Government came up with a fresh policy by issuing Government Resolution dated 12.7.2011.

The mere fact that the petitioners had applied for regularisation in terms of the earlier policy and the said applications were pending when the new policy came into force cannot be a ground to hold that the said applications ought to have been considered as per the earlier policy. The said applications, therefore, have been rightly decided in the light of Government resolution dated 12.7.2011 which is holding the field.

11. Once it is found that the petitioners had applied for regularisation on the basis of Government Resolution dated 28-11-1991 and the Collector rightly considered these applications in the light of subsequent Government Resolution dated 12-7-2011, the aspect of absence of grant of any hearing before passing the impugned order pales into insignificance. The impugned order merely states that in the light of the directions issued by the Division Bench in Bhaskar Bhagwant Dikkar (supra) and Government resolution dated 12-7-2011, the applications were being rejected. The petitioners had no vested right whatsoever to have their applications considered in the light of Government resolution dated 28.11.1991. The policy in question having undergone a change, insistence for grant of hearing in these circumstances would be nothing but an empty formality. The claim for regularisation under Government Resolution dated 28-11-1991 now not being possible in view of the subsequent Government Resolution dated 12-7-2011, no useful purpose would be served by directing grant of hearing to the petitioners. There could not be any other conclusion than one arrived at in the impugned orders. The observations of the Hon'ble Supreme Court in Dharampal Satyapal Ltd. (supra) support aforesaid conclusion.

12. In view of aforesaid discussion, it will have to be held that the impugned orders do not suffer from any legal infirmity whatsoever. The petitioners had claimed entitlement as per an earlier policy which pending consideration of the applications underwent a change. Under the policy which was in force when the applications were decided, there was no right whatsoever for the encroachment being regularized. There is no case made out to interfere in writ jurisdiction. The writ petitions stand dismissed by discharging the Rule and leaving the parties to bear their own costs.

CDJ Law Journal (Complete Digital Judgments)
POWERED BY AI - SINCE 2000
+91 44 22246609 +91 44 43585447
cdjlawjournal@gmail.com, cdjlawonline@gmail.com
CDJ House, No 5, Nehru Colony, Nanganallur, Chennai, India.
facebook.com/cdjlawjournal
+91 95434 62010
youtube.com/@cdjlawjournal
CDJ Powered by Alpha2OmegaTech

Free Text Search

Articles

Article Title: WHETHER PATTA ISSUED BY THE REVENUE DEPARTMENT IS A DOCUMENT OF TITLE OR NOT
Date of Article: January 1, 1970

WHETHER PATTA ISSUED BY THE REVENUE DEPARTMENT IS A DOCUMENT OF TITLE OR NOT

- **R. KARUNANIDHI,**
(Advocate, Madurai Bench of Madras High Court)

Introduction:

First I would like to express my gratefulness to the M.M.B.A. bar association for creating an opportunity to write about Patta. This essay is an endeavor to accentuate that the

Patta is not a document for title rather it is just a prima facie substantiation to shows the title. A Patta is a legal document issued by the Revenue Authority in the name of the actual owner of a particular land. It also impliedly says that the land does not belong to the Government or any other person but that it belongs to the person in whose name the Patta stands. A Patta land means it is the private property which stands in the name of a particular individual in the revenue records of the government, in contra distinction to government-owned lands, which are categorized as government poromboke, reserve forests poromboke, road poromboke and water course poromboke etc. A Patta, once issued, need not be renewed until a transaction through purchase, bequest or court decree takes place. In order to find out whether the vendor has got possession of a land certain documents like Patta or Chitta extract will have to be scrutinized. Patta Pass book was given to the holders of lands some time back in the 1970's the revenue department was issued Patta books in various colours like red, yellow and green. In 1980's a scheme called "Updating Registry Scheme" (UDR) was formatted by the Tamil Nadu Government under which revenue officials conducted a survey and issued Patta to the actual holders of lands to whom Patta was granted under the UDR scheme was granted. The said scheme was started on 01.06.1979 and terminated on 30.04.1987. Chitta extract gives particulars like Patta number, extent, levy of revenue and name of the Patta holders. These days such books are not issued and conversely Patta is easily obtained on-line by getting a print out of the same on payment of a nominal fees which is very useful for the land owners. The Patta can be transferred in three ways Viz., (1) If an owner having a Patta on his name, dies without leaving a will, the legal heirs of the deceased person are entitled to have Patta for the property in their names, (2) In the case of a person leaving a Will, Patta can be transferred to the beneficiary with the consent of others who will be the immediate heirs of the deceased person and (3) In case of purchase/sale of properties, it is possible to have the Patta directly in the name of a purchaser or a transferee.

Types of Patta:

3

There are many types of Patta and those types are issued depending upon the nature of property conveyed.

(i) Natham Patta or Manaivari Patta:

It is appropriate to discuss about the types of Patta for some understanding. Natham Porampoke is another classification done by the revenue department. The word "Natham" denotes a high land which is suitable for constructing house. The Revenue Department issues a Patta called "Natham Patta" or "Manaivari Patta" on two grounds: (i) Poor people who do not own a house site, (ii) A poor person who is in long possession and enjoyment of a site by putting up a hut or some temporary structure. Natham Pattas are issued to deserving persons after proper scrutiny of the suitable beneficiaries. The authority who signs such Natham Pattas under Natham settlement survey scheme is a Special Tahsildar. The other kinds of Natham Pattas are signed by the regular Tahsildar or the Deputy Tahsildar.

(ii) Ryotwari Patta

In olden days certain Manyams called 'Surotriyams 'Agraharam' Zamindari' were in vogue. All the Inam lands including minor inam were abolished by the advent of Inam Abolition Acts. After abolishing the imams regularization was done. By competent authorities under Ryotwari Pattas were issued in favors of those who were in actual possession and enjoyment of Inam lands. Such Ryotwari Pattas are also exceptional in character in as much as they are considered as document of title.

(iii) 2-C Patta

Apart from this sometimes private rights are provided to individuals as per the Revenue Standing Orders by way of 2-C Patta in respect of trees standing on Government Public land. The appropriate Government collected tax from the individual from the 2-C Patta holders before 1965. The Board Standing Order (BSO) -18 deals with the issuance of 2-C Patta. Thasildar and Deputy Thasildar are empowered to issue and cancel the 2-C Patta. The Villagers usually call this Patta name as *"Thoosi*

Patta" in colloquial language in our state. Presently the Revenue authority does not granting the 2-C Patta.

Verdicts given by the Courts in Pre-Independent India on Patta:

Patta is issued to a person by the revenue authorities main by to fix the person from whom land revenue is to be collected. On payment of Kist during every Fasli year a receipt is issued by the V.A.O. (Village Administrative Officer). The Kist receipt would reveal the Patta number, the revenue amount collected and also the period (Fasli year) for which the amount is collected. The Kist receipt does not disclose the Survey Number of the land but only the Patta Number. On the contrary Patta would contain Patta Number which comprises the various lands. Therefore a combined study of Patta or Chitta extract with the Kist receipt would vouch safe for the possession of a particular land. The verdict of Hon'ble Mr.Justice. Bhashyam Ayyangar, in **Secretary of State -Vs- Kasturi Reddi*([1903] 26 Mad. 268 at p. 272,)*** held that Patta issued by Government in respect of ryotwari lands are mainly intended to give information of the amount of revenue payable and the' installments by which it is to be paid. In the verdictof **Samarao Vs Secretary of State(1914 MWN 388)**, According to Hon'ble Mr.Justice Sadasiva Iyer, Government is under no statutory obligation to issue Patta at all to a Ryotwari proprietor. It sets out the name of the Pattadar, the extent of his land, and its survey number. It is not evidence of title, but only possession. The observations of that learned Judge have been followed in**Secretary of State -Vs- Janaki Tammayya Pantulu(A.I.R. 1925 Mad. 859)**. It is probably in this sense that we have to understand the observations of the Privy Council in the case reported in **Pushwati Alakh Narayan –Vs- Secretary of State (A.I.R. 1926 P.C. 18, at p. 258 (of 49 Mad.)** where the following passages occur in the Lordship's judgment, The submerged land was likewise struck out of the Patta which constitute the evidence of title given to the holders in a Ryotwari tenure. These Patta are subject to revision from time to time when changes of circumstances occur. Later, the Privy Council held in **Srinath Rai v. Pratap Udai Nath Sahi Deo (A.I.R. 1923 P.C. 217, (at p. 153 of 28 G. W. N.)** that a Patta is granted by the Zamindar as a title-deed to the tenant. It is very pertinent to quote the Hon'ble Chief Justice Mr. Victor Murray Coutts Trotter's verdict in the case of **The Official Assignee of Madras, Madras Versus Basudevadoss Badrinarayan Doss (1925 (1) MLJ 423),** where he held, "So far as South India is concerned, there is no doubt that a Patta has generally been regarded as a document of title. The Judge used the words "documents of title" and not "title deed," because it may be that there is some plausible distinction between the two expressions. He further held that a Patta has always been regarded by people in this country as a document of some evidence with regard to possession if not also to title. The original meaning of the word "Patta" appears to have been a lease, but it has always been used to indicate what is called occupancy right, that is, whether it be under a landlord who is a Zamindar or under the Government as suzerain occupancy right, which is really recognized to be practically proprietary right in the soil. Having regard to this meaning that the expression "Patta" has acquired among the landowning classes, it will lead to serious results if it should be held that a Patta is not such a document of title as by depositing which an equitable mortgage could not be created. As a matter of fact, in respect of a very large percentage of property in the country; there are any documents of title at all other than Pattas. Finally his lordship held that the Patta was such a document as by depositing which an equitable mortgage could be created.

The Tamil Nadu Patta Pass Book Act, 1983:

The Tamil Nadu Patta Pass Book Act, 1983 came into force on 30th January 1986. It is relevant to note that the preamble of the Act, it is stated that the object of the Act is to provide for the issue of Patta Pass-Book to holders of agricultural land. The definition of "Patta Pass-book" is only available in the Tamil Nadu Patta Pass Book Act, 1983.Section 2(7) of the Act defines, "Patta Pass Book" means the Patta Pass-Book issued under section 3 of the Tamil Nadu Patta Pass Book Act, 1983. When reading the Section 3 of the Act says, it confers the powers to Tahsildar to issue a Patta Pass-Book to every owner in respect of land owned by the individual.

Further the Section 23 of the Act says that the Tahsildar shall issue Patta Pass-Book to every owner in respect of the house site owned by him. The Act itself grant a relief under Section 6 that the entries in the Patta Pass-Book issued by the Tahsildar under section 3 shall be *prima facie evidence of title of the person*, in whose name the Patta Pass-Book has been issued to the parcels of the land entered in the Patta Pass-Book, free of any prior encumbrance.

Can a Patta be considered as a document of Title?

I have to discuss whether the Patta issued by the Revenue department can be considered as document of title. We need to discuss certain verdicts of the highest courts to come to a conclusion. As early as in the year 1995, a Division Bench of Madras High Court has observed, "No provision is brought to court notice in the Standing Orders of the Board of Revenue taking away the jurisdiction of the civil court to adjudicate upon the question of title relating to immovable property. Revenue Officers in a Patta proceeding may express their views on the question of title, but such expression of opinion or decision is not conclusive and it is only intended to support their decision for granting Patta. Ultimately, it is the civil court which has to adjudicate the question as to whether the person claiming Patta is the title holder of the land. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil court, which has to decide the question without reference to the decision of the revenue authorities".{**Kuppuswami Nainar -Vs- The District Revenue Officer, Thiruvannamalai and others, (1995 (1) MLJ 426 (para-3)}.**

The Hon'ble Supreme Court answering to a question on whether mutation of a property in the revenue record does create any right over the title in the year 1996, held "Mutation of a property in the revenue record does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation is ordered to pay the land revenue". {**Sawarni Versus Inder Kaur (1996 (6) SCC 223 (Para-7)}.** The Supreme Court discussed about the Revenue record entry in Widow's case wherein it stated that mere sanction of mutation in the name of another person will not divest a person from right and title. The mutation entries do not convey or extinguish any title and those entries are relevant only for the purpose of collection of land revenue. {**Balwant Singh Versus Daulat Singh 1997 AIR(SC) 2719 . [Paras 23 and 24]}**. It is pertinent to mention that the Supreme Court held that suit could not have been decreed merely on basis of entries in the revenue records. Following the same the Supreme Court held that the trial Court has to enquire or investigate into the question of title and the same could not have decreed in the suit merely on the basis of the entries in the revenue records. **{M.T.W. Tenzing Namgyal & Others Versus Motilal Lakhotia & Others,(2003 (5) SCC 1.}**

The Hon'ble Madras High Court elaborately discussed in **{T.M.Manicka Naicker Versus N.J.Chandrasekar & Another(CDJ 2003 MHC 1382) Para No-21}** about the legal question i.e., whether Patta is a document of title or not. The Patta is also the document of title but when it comes to the question of proving the title. The legal proposition held so far as is that mere Patta cannot confer title and therefore, it goes without saying that Patta could only consolidate and serve as an additional document of title with the some other document of title deeds such as the sale deed, the assignment order passed by the Government etc., and therefore, mere Patta alone cannot confer title, but coupled with the other documents of title deeds, the Patta would also go to prove the title of a person to a particular property.

The Hon'ble Madras High Court Division Bench held that the Entries in the revenue records does not create or extinguish title nor has it any presumptive value. Further the Division Bench made it clear that the order of the revenue authorities is not binding in the civil suit, and the civil court will decide the rights of the parties independently of the order of the revenue authority.**{M.E.A. Mohamed Ali & Others Versus The District Revenue Officer & Others (2005 (4) CTC 9) }**. This same view of the Chief Justice of Madras High Court was followed in **Senniyappan Vs- The Deputy Tahisldar, Palladam and others(2005(2) L.W.616)**. Even the Hon'ble Division Bench of Madras High Court has held that person who has applied to the Revenue Divisional Officer for cancellation of Patta should be directed to approach the Civil Court to establish the title since Patta alone is not decide the title of the property. {**Vishwas Footwear Company Ltd, rep. by Director V. Ravi Versus The District Collector Kancheepuram & Others** **(2011 (5) CTC 94)**}. Whenever there is discrepancy in the oral evidence, the court normally relies upon documentary evidence. The documents issued by the Government departments are expected to be correct and true. But in one interesting case, the Revenue department issued Patta to the plaintiff family as well as the defendant family. The Hon'ble Madras High Court rejected the evidence of Patta issued by the Revenue department and decided the Second Appeal. {**Kesavan and others -Vs- Muthu**(**2012(6) CTC 303**)}.

Conclusion

The issuance of Patta signifies only prima facie possession over the property. It is issued in the name of owner or in the case of joint holdings, in the names of the joint owners. If there is any problem or title conflict with the Government or any third person regarding the land, then the Patta can be given in as useful prima facie evidence. If there is any sale of the property, the Patta will not be the main determinant of the ownership of the property. Eventually the Patta is a document largely for paying the revenue tax at the Revenue department. Therefore I conclude that the Patta issued by the Revenue department cannot be considered as document of title.