

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.2751 of 2014

and

M.P.Nos.1 and 2 and 2014

1.J.Govindaraj
2.Sundaram
3.Lakshmi
4.S.Venkatesan
5.S.Kala
6.S.Gopi
7.S.Sujatha
8.S.Priya
9.Kannammal
10.Kalpana
11.J.Suresh

..Petitioners

/vs/

1.The Additional Chief Secretary
and Commissioner of Survey and Settlement
Chepauk,
Chennai 600 005.
2.The Assistant Settlement Officer (North),
Office of the Commissioner Survey and
Settlement Survey House,
Chennai 600 005.
3.The District Revenue Officer,
Thiruvallur.

..Respondents

सत्यमेव जयते

Writ Petition filed under Article 226 of the Constitution of India praying for issuance a Writ of Certiorarified Mandamus calling for the records relating to the first respondent letter O.M.(I1) 4455/13, dated 30.08.2013 of the Additional Chief Secretary, Commissioner of Survey and Settlement, Chepauk, Chennai 600 005, the first respondent herein and quash the same and further direct the respondents to grant Ryotwari patta as per provisions of Act 26/48 in favour of the petitioners for the land comprised in Survey No.273 an extent of 17.52 Acres in Vaniyamalli Village, Gummudipoondi Taluk, Thiruvellore District, pursuant to the petitioners representation dated 28.06.2013.

For Petitioners ..Mr.K.Balakrishnan

For Respondents ..Mr.R.A.S.Senthilvel,
Additional Government Pleader
for R1 to 3

ORDER

On 28.06.2013 the petitioner made a representation seeking to cancel the patta given to various third parties. However, the said representation was rejected by the impugned proceedings dated 30.08.2013 of the first respondent herein on the ground of limitation placing reliance upon the Government order passed in G.O.Ms.No.714 dated 29.06.1987. Challenging the same, this writ petition is filed.

2.Considering the very same issue involved, this Court in W.P.No.7856 of 2013 dated 27.06.2014 has passed the following order:

6.Admittedly, the request made by the petitioners has not been considered on merits. The impugned order does not indicate as to whether any claim by the third party has accept in. Therefore, this Court is not inclined to go into the said issue. Considering the very same issue, this Court in W.P.No.4980 of 2012 dated 09.03.2012, was pleased to pass the following order, after placing reliance upon the earlier decisions:

"4.Learned counsel for the petitioner at the outset would refer to the impugned order dated 31.01.2012, wherein his request for grant of patta has been summarily rejected on the ground that any application filed beyond 20.08.1987 would be rejected as time barred. He also points out that when a similar order of rejection was questioned by a person like that of the petitioner herein before this Court, this Court by a detailed order, set aside the same and remanded the matter to the authorities concerned with a direction to consider the application without reference to the delay. Therefore, he submits that this order is liable to be interfered with.

5.I find that the rejection has been made only on the ground that the application has been filed beyond the time. In this connection, I refer to the order passed by this Court on 21.02.2012 in W.P.No.3989 of 2012, wherein this Court had an occasion to deal with a similar

order of rejection and set aside the order, after finding that the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, does not prescribe any time limit for filing a claim petition for the purpose of issuance of patta. Therefore, when the application filed by the petitioner herein for patta has been rejected as it is time barred, the order suffers from patent irregularity. Further, the order of rejection has been passed without hearing the petitioner concerned.

6. Therefore, in the light of the order passed by this court on 21.02.2012 in W.P.No.3989 of 2012, this Writ Petition is allowed. The impugned order dated 31.01.2012 is set aside and the matter is remanded to the first respondent with a direction to consider the application afresh and in accordance with law after affording opportunity to the petitioner, within a period of eight weeks from the date of receipt of a copy of an order, without rejecting on the same ground of limitation once again.

The writ petition is allowed in the above terms. Consequently, connected Miscellaneous Petition is closed. No costs.

7. In the light of the decision referred supra, the order impugned in this writ petition is set aside and the petitioner is directed to resubmit the papers within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to decide the application on merits and in accordance with law, within a period of twelve weeks thereafter. It is made clear that this Court has not expressed any opinion on the merits of the matter. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

3. Following the same, the impugned order dated 30.08.2013 is set aside, as it is not based on the merits. Consequently, the first respondent is directed to consider and pass orders on the representation of the petitioner, on merits and in accordance with law, after affording opportunity to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. The

writ petition is allowed accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The Additional Chief Secretary
and Commissioner of Survey and Settlement
Chepauk,
Chennai 600 005.

2.The Assistant Settlement Officer (North),
Office of the Commissioner Survey and
Settlement Survey House,
Chennai 600 005.

3.The District Revenue Officer,
Thiruvallur.

+2 ccs to M/s.K.Balakrishnan, Advocate, sr.42218
+1 cc to The Govt. Pleader, sr.42449.

ug(co)
kra(20/08)

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सत्यमेव जयते

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