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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 02.02.2016

DATE OF DECISION: 9.02.2016

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.96 of 2015 and M.P. No.1 of 2015

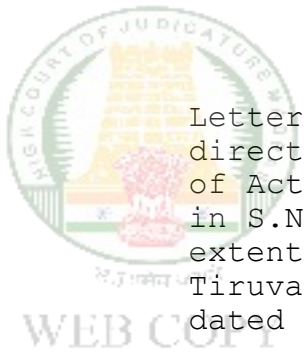
1	Sundaram	
2	S. Lakshmi	
3	S. Venkatesan	
4	S. Gopi	
5	S. Kala	
6	S. Sujatha	
7	S. Priya	
8	J. Kanamma	
9	J. Suresh	
10	J. Kalpana	
11	J. Govindaraj	Appellants/ Petitioner

Vs.

1	The Principal Secretary and Commissioner of Land Administration Chepauk, Chennai 600 005	
2	The Assistant Settlement Officer (North) O/o the Commissioner of Survey and Settlement Survey House, Chennai 600 005	
3	Tata Communication Limited represented by its Deputy General Manager N. Kesava Prasad No.4, Swami Sivananda Salai, Chennai 600 002	
4	Videsh Sanchar Nigam Employees' Cooperative Housing Society represented by its President Joseph Manoharan No.4, Swami Sivananda Salai Chennai 600 002	Respondents/ Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 24.09.2014 passed in W.P. No.9004 of 2013.

Petition under Article 226 of the Constitution of India to issue writ of certiorarified mandamus in the nature of writ calling for records records relating to the 1st respondent



Letter No. K1/1895/2013 dt. 28.02.2013 and quash the same and to direct the respondents to grant Ryotwari patta as per provisions of Act 26/48 in favour of the petitioners for the land comprised in S.No.155/2 over an extent of 67.65 acres and S.No.156 over an extent of 21.00 acres of Padianallur Village Ponneri Taluk Tiruvallur District pursuant to the petitioners representation dated 23.01.2013

For appellants Mr. S. Prabakaran
for Mr. K. Balakrishnan

For RR 1 & 2 Mr. P.H. Arvind Pandian
Addl. Advocate General
assisted by
Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R3 Mr. G. Masilamani, Sr. Counsel
assisted by Mr. C. Mohan
for M/s. King and Partridge

For R4 Mr. Rupert J. Barnabas

JUDGMENT

SATISH K. AGNIHOTRI, J.

This intra-Court appeal is focussed against the order dated 24 September 2014 rendered in W.P. No.9004 of 2013. The writ petitioners, feeling dissatisfied, have preferred the instant appeal.

2 To avoid prolixity, the parties are referred to as per their arraignment in the instant appeal.

3.1 Shorn of the minute details, a vignette of the germane and necessary facts leading to the filing of the instant appeal is that Padianallur Village in Ponneri Taluk, Tiruvallur District, was taken over by the Government under the provisions of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short "the Act") in January 1951. A ryotwari settlement was introduced in 1953. During such settlement, the lands in S.No.155/2 and 156, which are the petition scheduled lands, were assessed as "Government Poramboke/Assessed Waste Dry". In 1954, the Government of Madras sanctioned the transfer of land to the extent of 85.94 acres to Overseas Communication Service, Ministry of Communications, Government of India on 29th March, 1954. Subsequent thereto, in 1986, the Government of India transferred the assets and liabilities of Overseas Communication Service to Videsh Sanchar Nigam Ltd. Thereafter,



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in 2002, in pursuance of disinvestment policy, VSNL vested with the third respondent, viz., Tata Communications Limited. In October, 2008, the Ministry of Communication and Information Technology sent a letter of consent to the Revenue Department for issuance of patta to the third respondent and accordingly, the third respondent was issued with patta in July 2009.

3.2 Albeit, as per the Act, an appeal against the settlement could be filed within 30 days, the limitation period was extended by the Government from time to time. Ultimately, vide G.O. Ms.No.714, Commercial Taxes and Religious Endowment Department dated 29 June 1987 (for short "G.O.Ms.No.714") the Government fixed 20 August 1987 as the last date for applying for patta and withdrew the powers of the authorities to condone the delay.

3.3 While so, the appellants, claiming to be the descendants of Solagiri Zamindar of Hosur Taluk, Salem District and that Padianallur Village was earlier part of Zamin estate, addressed a representation to the first respondent to invoke suo motu powers to grant patta in their favour for the lands in question. The said authority, finding that the ryotwari settlement was made way back in 1953 and that the appellants have made their claim nearly after six decades, which could not be considered as a normal delay, rejected the appellants' request for grant of patta, vide letter dated 28 February 2013.

3.4 The appellants assailed the aforestated order / letter passed by the first respondent before the learned Single Judge contending inter alia that the Act does not prescribe any time limit to apply for ryotwari patta and as per the revenue records prior to settlement, the lands in question stood in the name of their predecessors. As such, the first respondent ought not to have rejected their claim, that too, without affording an opportunity of hearing to them. In addition to, seeking quashment of the order of the first respondent, the appellants further sought a direction to the respondents to grant ryotwari patta to them, as per the provisions of the Act, pursuant to their representation dated 23 January 2013.

3.5 The learned Single Judge, finding inter alia that (i) the suo motu power of revision cannot be exercised after an unbearably long period of time, (ii) the rights accrued to third parties over a period of time, cannot be jeopardised by exercise of suo motu power of revision and (iii) the appellants have not proved that they belong to the family of the Zamindar concerned, dismissed the writ petition. Feeling aggrieved, the instant appeal by the writ petitioners.

4.1 Mr. S. Prabakaran, learned counsel for the appellants would submit that the Board of Revenue, exercising its power under Section 7(c) of the Act, is competent to cancel or revise any of the orders, acts or proceedings of any Settlement



Officer at any point of time without their being any limitation on time. If the Board of Revenue, on examining the facts, comes to a conclusion that the earlier orders, acts or proceedings, are not in accordance with the provisions of the Act, the same is subject to cancellation or revision by the Board, at any point of time. It is further contended that under G.O. Ms.No.714, the suo motu power of the Commissioner of Land Administration, as conferred under Section 7 of the Act, is not subject to any time limitation. The learned counsel would further contend that the identical facts came into consideration in several writ petitions in (i) D. Maujini Chella vs. The Assistant Settlement Officer (North) and another¹, (ii) R. Bangaru Ammal vs. The Assistant Settlement Officer (North) and another², (iii) Model Education Society vs. The Commissioner of Land Administration, Chennai - 5³ and (iv) Mansi Chhog Impex (Chennai) Ltd and Sajjan Kanwar Bafna vs. The Commissioner of Land Survey and Settlement⁴ and the respective learned Single Judges, ignoring the delay in making the representation, remitted back the matters for fresh consideration of the same, on merits, vide orders dated 25 April 2011, 21 February 2012, 09 March 2012 and 17 April 2012 respectively. Thus, the appellants ought to have been treated at par with those petitioners and granted opportunity to put forth their case on merits. The appellants were not afforded opportunity to place their case, before their representation was rejected by the first respondent on the ground of laches and delay.

4.2 He would further contend that the learned Single Judge has dismissed the writ petition on the ground that the appellants have not produced a genealogy tree to establish their relationship with the erstwhile Zamindar. If this was the ground for rejection of the appellants' claim, the appellants ought to have been given an opportunity to place the genealogy tree to establish the fact that they are the legal heirs of the erstwhile Zamindar family or the matter ought to have been remitted back to the first respondent for considering the said fact afresh. The patta granted to the third respondent was cancelled in 2011 and as such, the third respondent has no right to continue in possession in respect of the land to an extent of 85.94 acres at Padianallur Village.

5 Per contra, Mr. P.H. Arvinth Pandian, learned Additional Advocate General appearing for respondents 1 and 2 would contend that the learned Single Judge has rightly dismissed the writ petition upholding the order rendered by the first respondent. The power conferred under Section 7(c) of the Act on the first respondent is exercisable within the reasonable time. Even if there is no prescription of time limit under the statute, the appellants' application suffers from

1 W.P. No.10485 of 2011

2 W.P. No.3989 of 2012

3 W.P. No.4980 of 2012

4 W.P. Nos.22216 and 22217 of 2011



laches. It is further contended that the appellants have not produced any material to establish their right to the lands on the basis of being legal heirs/descendants of the erstwhile Zamindar. The appellants have also not filed any application justifying the reasons for condonation of such an unexplained inordinate delay.

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6.1 Mr. G. Masilamani, learned Senior Counsel, assisted by Mr.C.Mohan, learned counsel, appearing for the third respondent would submit that the suo motu power exercisable under the provisions of Section 7(c) of the Act cannot be invoked in view of the specific provision of appeal. In the case on hand, an appeal would lie before the Appellate Tribunal against the order passed under the provisions of Section 15 of the Act, wherein, the time limit prescribed for filing an appeal is two months and in case of further delay with explanation, the time limit prescribed is six months.

6.2 The learned Senior Counsel would further contend that a land holder, claiming ryotwari patta, must prove that he has been cultivating the land by himself or by his own servants from July 1945 directly and or in continuous possession of the same. To garner support in respect of this contention, the learned Senior Counsel relies on the judgment in P. Venkataswami and another vs. D.S. Ramireddy and another⁵.

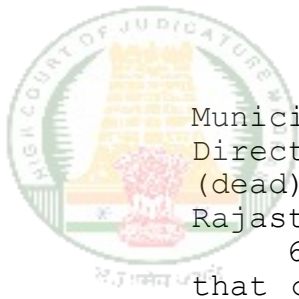
6.3 He would further submit that the subject land/estate was taken over by the Government on 03 January 1951 and no challenge has been made thereagainst. The subsequent transfer of the lands to the Overseas Communication Service was for a valuable consideration and further, on 29 March 1954, it was transferred to the predecessors of the third respondent and they are in continuous possession of the land. The next ground of attack of the learned Senior Counsel is that the appellants are claiming to be the descendants of the Zamindar of Solagiri, Hosur, Salem District, whereas, the petition scheduled land is situated in Chingleput District, belonging to the erstwhile Zamindar of Padianallur.

6.4 It is further urged by the learned Senior Counsel that the appellants have not given any justification or reasons for not approaching the authority for the last six decades and as such, their claim was rightly rejected both by the first respondent and the learned Single Judge. In support of this contention, the learned Senior Counsel places reliance on the ratio laid down by the Supreme Court in Joint Collector Ranga Reddy District and another vs. D.Narsing Rao and Others⁶.

6.5 The learned Senior Counsel would further contend that in the event, there is no prescription of limitation in the statute, applications are required to be made within a reasonable time. To fortify this stand of his, the learned Senior Counsel has placed reliance on the judgments of the Supreme Court in Sulochana Chandrakant Galande vs. Pune

⁵ (1976) 3 SCC 665

⁶ (2015) 3 SCC 695



Municipal Transport and Others⁷, Surinder Kaur Grewal vs. Director, Consolidation of Holdings and others⁸ and Ram Karan (dead) through Legal Representative and Others vs. State of Rajasthan and Others⁹.

6.6 It is further contended by the learned Senior Counsel that on dispossession from the land, a person can make a claim within three years or twelve years, in appropriate cases, even on the basis of title under the provisions of the Limitation Act. In respect of orders passed in writ petitions, relied on by the learned counsel for the appellants, wherein, the matters were remitted back to the authorities for reconsideration on merits, the learned Senior Counsel would contend that in W.P. No.10485 of 2011, disposed of vide order dated 21 April 2011, the petitioner was in continuous possession of his small extent of land and claimed ryotwari patta, in the absence of contest by the Government. The subsequent orders were passed relying on the said order, without examining the facts of the respective cases. However, the instant writ petition, viz., W.P.No.9004 of 2003 was dismissed by the learned Single Judge after contest put up by the Government. Thus, the said orders passed in the facts of those cases are not precedents for adjudication of the dispute involved in the case on hand, wherein, the facts are not akin. It is lastly contended that the fourth respondent, viz., Videsh Sanchar Nigam Cooperative Housing Society, has also acquired a right to a portion of the subject land to an extent of 32.5 acres, transferred on 22 July 2009, which was the subject matter before the High Court of Delhi and the said transfer was also upheld. Thus, the rights accrued in favour of the fourth respondent cannot be unsettled in the instant proceedings.

7 Mr. Rupert J. Barnabas, learned counsel for the fourth respondent Cooperative Housing Society supports the contentions advanced by the learned counsel for the other respondents.

8 We have given our anxious consideration to the submissions advanced hereinabove by the learned counsel for the parties and also examined the pleadings and documents appended thereto.

9 First, we will proceed with the relevance of the disposal of four writ petitions (supra) relied on by the learned counsel for the appellants, which were allegedly filed by similarly situated persons.

10 In W.P. No.10485 of 2011, filed in respect of land measuring 1 acre and 48 cents, the learned Single Judge, without considering the laches in filing the petition after forty years, set aside the order impugned therein and allowed the writ petition, remitting back the matter to the first

7 (2010) 8 SCC 467

8 (2010) 15 SCC 461

9 (2014) 8 SCC 282



respondent therein to decide the petitioner's application on merits and in accordance with law, after affording an opportunity to the petitioner therein.

11 In W.P. No.3989 of 2012, filed in respect of land measuring 3 acre and 46 cents, 0.24 cents and 0.45 cents, wherein, the petitioner was stated to be in possession and enjoyment of the said properties till the application was made for grant of patta, the issue of limitation was again not considered and in view of the earlier order passed in W.P. No.10485 of 2011, the rejection of the application on the ground of laches by the first respondent was set aside and the matter was remitted back to the authority concerned for fresh consideration, on merits.

12 In yet another writ petition being W.P. No.4980 of 2012, filed in respect of 7 acres of land, again, relying on the order passed in W.P. No.3989 of 2012, without considering the facts and also the issue of limitation, the rejection of application on the ground of the same being time barred, was set aside and the said writ petition was allowed with a direction to the authority re-consider the matter afresh, on merits.

13 In W.P. Nos.22216 and 22217 of 2011, wherein, the extent of land was 0.31 acre and Ac.0.8 cents & Ac.0.22 cents respectively, again, relying on the order passed in W.P. No.4980 of 2012, a similar order was passed setting aside the order rendered by the respondent therein and directing the said authority to consider the issue afresh on merits.

14 Concededly, in none of the aforestated four writ petitions, the legal issue as to the maintainability of the representation to grant patta in respect of ryotwari or zamindari land which has come into the possession of the Government on abolition of Zamindari system, beyond reasonable time, after a long, inordinate, unexplained and unreasonable delay and laches, was considered or decided. Thus, the contention of the learned counsel for the appellants that the appellants be treated at par with the petitioners in the aforestated writ petitions, cannot be countenanced. In such factual matrix, the orders rendered in the said writ petitions do not create precedents for adjudication of the instant dispute.

15 The Supreme Court, in Union of India and Others vs. M.K.Sarkar¹⁰, while examining issuance of a direction to the authorities to consider a representation, has cautioned the High Court that a direction to examine the representation be issued only in a live issue and that the Court should examine the issue before ordering to consider the representation. While holding so, the Supreme Court observed as under:

"16. A court or tribunal, before directing



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"consideration" of a claim or representation should examine whether the claim or representation is with reference to a "live" issue or whether it is with reference to a "dead" or "stale" issue. If it is with reference to a "dead" or "stale" issue or dispute, the court/tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or tribunal deciding to direct "consideration" without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect."

16 The appellants made the representation on 23 January 2013 to the first respondent, claiming to be the descendants of Solagiri Zamindar of Hosur Zamin Estate for grant of ryotwari patta in respect of the land comprised in S.Nos.155/2 over an extent of 67.65 acres and S.No.156 over an extent of 21 acres in Padianallur Village, Ponneri Taluk, Tiruvallur District. It was not the case of the appellants that they are in possession of the petition scheduled lands. The first respondent, exercising his power under the provisions of the Act, came to hold that as per the Rules framed under the Act, the appeal should be filed within 30 days from the date of completion of Final Settlement Enquiry. The first respondent further held that the rules were amended from time to time in order to facilitate the land holders, ryots and tenants to apply for grant of patta beyond the statutory appeal period and, finally, amendments were made and notified by G.O. Ms.No.714, whereunder, the powers to condone the delay was withdrawn.



17 In respect of the petition scheduled property, the settlement was completed way back in the year 1953. The appellants had not come forward earlier and without explanation for such an inordinate delay, had filed their representation after six decades. Accordingly, the same was rejected by the first respondent vide order dated 28 February 2013, which made the appellants file the instant writ petition.

18 In order to appreciate the factual as well as legal issues involved herein, it is apposite to refer to Section 7 of the Act which reads as under:

"7. Powers of control of the Board of Revenue

The Board of Revenue shall have power

a) to give effect to the provisions of the Act and in particular to superintend the taking over of estates and to make due arrangements for the interim administration thereof;

b) to issue instruction for the guidance of the Director, District Collectors, Settlement Officers and Managers of estates;

c) to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies to the Tribunal or of any Managers; and

d) to cancel or revise any of the orders, acts or proceedings of the Director or of any District Collector, including those passed, done or taken in the exercise of revisional powers."

19 Section 7 which is stated to be invoked in the instant dispute, provides for superintendence of the taking over of the estates and further, making due arrangements for the interim administration. The Board of Revenue so constituted is competent to cancel or revise any of the orders, acts or proceedings of any Settlement Officer, other than those in respect of which an appeal lies to the Tribunal or of any Managers under Section 7(c) of the Act. Under clause (d) of Section 7 of the Act, the Board of Revenue may exercise its power to cancel or revise any of the orders, acts or proceedings of the Director or any District Collector, including those passed, done or taken in the exercise of revisional powers.

20 In the case on hand, the appellants have approached the first respondent seeking exercise of the power purportedly



under Section 7(c) of the Act and cancel the allotment made earlier to the third respondent and its predecessors and grant patta to them. The first respondent has not examined the factual disputes about the entitlement of the appellants claiming to be descendants of the erstwhile Zamindar under the provisions of the Act and dismissed the representation being barred by unreasonable delay.

21 By G.O. Ms.No.714, the Department was divested of the power to condone delay. Indisputably, there is neither any application nor explanation in the appellants' representation dated 23 January 2013, for inordinate delay. It is well settled that in the event, there is no statutory prescription, the reasonable delay has to be engrafted while considering a review, revision or appeal by an aggrieved person, questioning the legality of the order, proceedings or acts of the officer.

22 In Sulochana Chandrakant Galande (supra), while examining the provisions of Section 36 of the Urban Land (Ceiling and Regulation) Act, 1976, which provides for revision of any order passed by the State Government, wherein, there was no prescription of any time limit, the Supreme Court held thus:

"28. The legislature in its wisdom did not fix a time-limit for exercising the revisional power nor inserted the words "at any time" in Section 34 of the 1976 Act. It does not mean that the legislature intended to leave the orders passed under the Act open to variation for an indefinite period inasmuch as it would have the effect of rendering title of the holders/allottee(s) permanently precarious and in a state of perpetual uncertainty. In case, it is assumed that the legislature has conferred an everlasting and interminable power in point of time, the title over the declared surplus land, in the hands of the State/allottee, would forever remain virtually insecure. The Court has to construe the statutory provision in a way which makes the provisions workable, advancing the purpose and object of enactment of the statute.

29. In view of the above, we reach the inescapable conclusion that the revisional powers cannot be used arbitrarily at a belated stage for the reason that the order passed in revision under Section 34 of the 1976 Act, is a judicial order. What should be reasonable time, would depend upon the facts and circumstances of each case.

30. If some person has taken a relief from the court by filing a writ petition immediately after the cause of action had arisen, the petitioners cannot take the benefit thereof resorting to legal proceedings belatedly. They cannot take any benefit



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thereof at such a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person. In *State of Karnataka v. S.M. Kotrayya*, this Court rejected the contention that a petition should be considered ignoring the delay and laches, on the ground that the petitioner therein filed the petition just after coming to know of the relief granted by the Court in a similar case, as the same cannot furnish a proper explanation for delay and laches. The Court observed that such a plea is wholly unjustified and cannot furnish any ground for ignoring delay and laches."

23 In *Surinder Kaul Grewal (supra)*, the issue for consideration before the Supreme Court was, where no time limit is prescribed for application under Section 42 of the *East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948*, whether the application filed nearly after 27 years was maintainable. In answer to the said issue, the Supreme Court held as under:

"5. The question of limitation for initiating proceedings under Section 42 is covered by a decision of this Court in *Gram Panchayat, Kakran v. Director of Consolidation* where this Court has held that when no limitation is prescribed for an application under Section 42, the application should be filed within a reasonable time. In the present case, it is not disputed that the application under Section 42 was filed nearly after 27 years. It was clearly barred by limitation."

24 In *Ram Karan (supra)*, it was held as under:

"36. In *State of Punjab v. Bhatinda District Coop. Milk Producers Union Ltd.* this Court held that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. However, what shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors. In the present case, neither any objection was raised nor was any application filed by vendors for restoration of land in their favour. The suit was filed by the Tahsildar, Viratnagar after more than 31 years. No ground is shown to file such petition after long delay nor was it mentioned as to whether the vendors i.e. original landholders made any application for restoration of land in their favour.



37. In view of the matter, we hold that the suit being filed beyond the reasonable period was fit to be dismissed. The Additional Collector rightly dismissed the suit being barred by limitation."

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25 In the case on hand, incontrovertibly, the appellants have filed the representation/petition seeking grant of patta after six decades, claiming to be descendants of the erstwhile Zamindar. Albeit there is no limitation prescribed for exercise of power under Section 7(c) of the Act, it does not entitle the appellants to question the action of the Settlement Officer by allotting the scheduled property in favour of the third respondent and its predecessors, beyond a reasonable delay. The appellants have miserably failed to explain such an inordinate delay and laches.

26 Recently, exercise of suo motu power in respect of limitation under the A.P. (Telengana Area) Land Revenue Act, 1317 F (1907) came up for consideration in Joint Collector Ranga Reddy District (supra), wherein, it was held thus:

"16. No time-limit is prescribed in the above section for the exercise of suo motu power but the question is as to whether the suo motu power could be exercised after a period of 50 years. The Government as early as in the year 1991 passed an order reserving 477 acres of land in Survey Nos. 36 and 37 of Gopanpally Village for house sites to the government employees. In other words, the Government had every occasion to verify the revenue entries pertaining to the said lands while passing the Government Order dated 24-9-1991 but no exception was taken to the entries found. Further the respondents herein filed Writ Petition No. 21719 of 1997 challenging the Government Order dated 24-9-1991 and even at that point of time no action was initiated pertaining to the entries in the said survey numbers. Thereafter, the purchasers of land from Respondents 1 and 2 herein filed a civil suit in OS No. 12 of 2001 on the file of the Additional District Judge, Ranga Reddy District praying for a declaration that they were lawful owners and possessors of certain plots of land in Survey No. 36, and after contest, the suit was decreed and said decree is allowed to become final. By the impugned notice dated 31-12-2004 the suo motu revision power under Section 166-B referred to above is sought to be exercised after five decades and if it is allowed to do so it would lead to anomalous position leading to uncertainty and complications seriously affecting the rights of the parties over immovable properties.

17. In the light of what is stated above we are



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of the view that the Division Bench of the High Court was right in affirming the view of the learned Single Judge of the High Court that the suo motu revision undertaken after a long lapse of time, even in the absence of any period of limitation was arbitrary and opposed to the concept of rule of law.

31. To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third-party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority."

27 Thus, in the conspectus of the aforestated facts and the proposition of law in exercise of power in respect of limitation, wherein, no statutory prescription is provided, it is well settled that no application for review or revision or appeal is maintainable beyond the reasonable time. Decidedly, the land was transferred to the predecessors of the third respondent, i.e., Overseas Communication Service, Ministry of Communications, Government of India, for valuable consideration on 29th March, 1954, creating third party right.

28 The appellants, claiming to be descendants of the erstwhile Zamindar are entitled to ryotwari patta in Zamindari Estate under the provisions of Section 12 of the Act. On a bare reading of the said provisions, it is eloquent that a landholder, claiming to be entitled to ryotwari pata under the provisions, must have acquired the land by inheritance or succession under a will or by purchase, exchange of gift, but not including purchase at a sale for arrears of rent, provided the said land holder is in continuous possession of such lands from 1st day of July 1945 and had been cultivating such lands himself, by his own servants or by hired labour, with his own or hired stock in the ordinary course of husbandry. The appellants have not pleaded even in their representation made to the first respondent that they have been in continuous possession of the land from the specified date, i.e., 1st July, 1945 and also on



the notified date, i.e., the date when the Act came into force and cultivating themselves or through their own servants or by hired labour or otherwise.

29 The State Government, subsequently, by several Government Orders, as referred to in G.O. Ms.No.1300, Revenue Department dated 30 April 1971, had permitted the landholders or the ryots, who could not obtain patta within the prescribed time under the provisions of the Act, to make an application for grant of patta in respect of such lands, provided they were in continuous possession and enjoyment of any land in the estate taken over under the Act. The said permission came to an end subsequently by G.O. Ms.No.714, which stipulated the last date as 20 August 1987. The appellants had never come forward under the aforestated provisions of the Act or under the extended time granted by several Government Orders, claiming to be in continuous possession and enjoyment of any land in the estate taken over under the Act.

30 As a sequitur, we have no hesitation in holding that the first respondent had rightly rejected the appellants' application as being barred by delay and that the learned Single Judge has justly dismissed the writ petition upholding the order passed by the first respondent.

31 We are not disposed to examine the eligibility of the appellants as to whether they are the descendants of the erstwhile Zamindar and also whether they are entitled to ryotwari patta under the aforestated provisions of the Act. Consequently, it is not proper to remit back the matter to the first respondent to consider their representation dated 23 January 2013, afresh, on its own merits.

Resultantly, the instant intra-Court appeal fails and is accordingly dismissed. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

cad

To

1 The Principal Secretary and Commissioner of
Land Administration
Chepauk, Chennai 600 005



2

The Assistant Settlement Officer (North)
O/o the Commissioner of Survey and Settlement
Survey House
Chennai 600 005

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2 ccs to M/s. K. Balakrishnan, Advocate, sr. 8272
2 ccs to M/s. King Patridge, Advocate, Sr. 8372
1 cc to M/s. Rubert Barnabas, Advocate, sr. 8373

W.A. No.96 of 2015

UG (CO)
kk 16/2