



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.09.2017
CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) Nos. 714 & 718 of 2015

and

M.P. (MD) Nos. 1, 1, 2 & 2 of 2015

and

C.M.P. (MD) Nos. 3438 & 3439 of 2016

L.Sasikala ... Appellant in W.A. (MD) No. 714 of 2015
A.Rajalingam ... Appellant in W.A. (MD) No. 718 of 2015

-vs-

1. The Special Commissioner cum
Director of Survey and Settlement
Survey Buildings, Chepauk,
Chennai-600 005.

2. The District Collector,
Theni District.

3. The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

4. The Tahsildar,
Uthamapalayam,
Theni District.

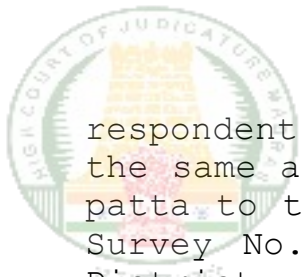
5. The Town Panchayat of Kuchanur,
rep. by its Chairman, Mrs. B. Rojammal,
Kuchanur, Uthamapalayam Taluk,
Theni District.
(R5 impleaded vide Court order dated 29.01.2016
made in M.P. (MD) Nos. 2 & 2 of 2015 in
W.A. (MD) Nos. 714 & 718 of 2015)

... Respondents in both W.A.'s

Common Prayer: Writ Appeals filed under Clause 15 of Letter Patent, to set aside the order passed by this Court in W.P. (MD) Nos. 5904 & 5909 of 2012 dated 23.02.2015.

Prayer in WP (MD) . 5904/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari and Mandamus, by calling for the proceedings of the 1st



respondent in his Na.Ka.No.II/4280/2011 dated 12.04.2011 and quash the same and consequently direct the respondents to grant ryotwari patta to the petitioner for the lands to an extent of 55 cents in Survey No.585/8 in Kutchanur Village, Uthamapalayam Taluk, Theni District.

WEB COPY

Prayer in WP(MD). 5909/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, by directing the Respondents to grant Ryotwari Patta to the Petitioner for the lands to an extent of 1.05 Acres in S.No.585/8 in Kutchanur Village, Uthamapalayam Taluk, Theni District.

For Appellant	:Mr.V.Vijay Shankar
(in both W.A.'s)	
For Respondents 1 to 4	:Mr.V.R.Shanmuganathan
	Special Government Pleader
For 5 th Respondent	: Mr.Thirumurthy
(in both W.A.'s)	for M/s Victory Associates

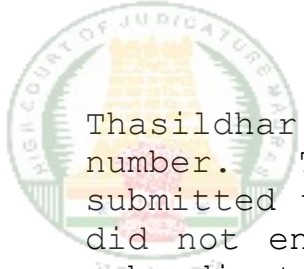
COMMON JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J**)

Considering the over lapping issues involved in these Writ Appeals, they are taken up together for disposal by this common order.

2.W.A.(MD)No.718 of 2015 has been filed against the order of the learned Single Judge, by which the rejection of the application seeking Ryotwari Patta was declined to be considered on merits on the ground of limitation as per G.O.Ms.No.714, dated 29.06.1987. The W.A.(MD)No.714 of 2015 has been filed against rejection of Ryotwari Patta. The learned Single Judge was pleased to dismiss both the writ petitions filed *inter alia* holding that the patta was referable to Sections 12 to 15 of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Hereinafter referred to as Act XXVI of 1948). There is a bar in entertaining the request as they have been made belatedly than the period described therein.

3.The learned counsel appearing for the appellants would submit that as per the orders passed by the Single Judge in W.P. (MD)Nos.2590 to 2595 of 2013 dated 17.03.2010, the order passed by the first respondent in rejecting the application on the ground of limitation will have to set aside. Incidentally, it has been submitted that for a similarly placed person, the Revenue



Thasildhar has given a patta with regard to the same survey number. The learned counsel appearing for the appellants also submitted that in writ appeal No.714 of 2015, the first respondent did not entertain the application filed and thereafter asked his subordinates to look into the matter. Therefore, contrary stands has taken by the first respondent .

4.The learned Additional Government Pleader would submit that the issue is no longer a *res integra* as the Division Bench of this Court in **W.A.No.96 of 2015 dated 09.02.2016** has taken the view that G.O.Ms.No.714, C.T. & R.E dated 29.06.1987, would govern the cases. Even otherwise, in the absence of any time limit fixed, the Court of law will have taken into consideration the reasonable period. The appellants having filed an application, after decades and that too even after 20 years from the date of receipt of the Government Order passed in G.O.Ms.No.714, C.T. & R.E dated 29.06.1987, cannot seek adjudication on merits at this stage.

5.The learned counsel appearing for the 5th respondent would submit that the property has been assigned in its favour.

6.We have considered the rival submissions and perused the materials available on record.

7.Coming to the first issue, the same has already been considered at length by the Division Bench referred Supra. The following paragraph would be apposite:

"21. By G.O.Ms.No.714, the Department was divested of the power to condone the delay. Indisputably, there is neither any application nor explanation in the appellant's 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.

...

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

...



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

8. The Judgment relied upon the learned Single Judge did not take into consideration the scope and applicability of the Section 11 of Act XXVI of 1948 as rightly submitted to the learned Additional Government Pleader. Section 11 mandates the Assistant Settlement Officer to consider the issue of Ryotwari Patta after being satisfied with the status of the individual as a ryot. If anybody aggrieved over the non consideration or failure to issue the Ryotwari Patta, then appeal would lie under Section 12 and thereafter. Therefore, any request under Section 11 made to an officer other than the settlement officer will have to be treated as appeal or revision as the case may be. In such a case, the rigour of G.O.Ms.No.714, C.T. & R.E dated 29.06.1987, would come into play. It is not an administrative order, but an amendment to the Rule made. It is a trite law that when a statute prescribes a period, then a Court of law cannot reconsider and bring the provision of Section 5 of the Limitation Act. Therefore, we are of the view, that the order passed by the Division Bench referred supra would govern the case. In such view of the matter there is no merit in the appeals.

9. Accordingly, the Writ Appeals stand are dismissed. However, insofar as the contention raised by the learned counsel appearing for the appellants that the land in question will not come under the settlement and therefore the purview of Act XXVI of 1948 being Natham land cannot be considered in this proceedings. It is a specific case of the appellants that similarly placed persons have been granted patta by the Revenue Thasildhar. If that is the case, it is well open to the appellants to workout their remedy in the manner known to law as we are not expressing anything on the aforesaid issue. Similarly, on the case as sought to be exposed by the 5th respondent. However, we make it clear that before consideration of the patta, the Revenue Thasildar will have to hear the parties, especially the fifth respondent. No costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar



To:

1.The Special Commissioner cum
Director of Survey and Settlement
Survey Buildings, Chepauk,
Chennai-600 005.

2.The District Collector,
Theni District.

3.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

4.The Tahsildar,
Uthamapalayam,
Theni District.

+1cc to M/S.A.THIRU MURTHY, Advocate SR.No.79005
+2cc to M/S.V.VIJAY SHANKAR, Advocate SR.No.79113
+1cc to Special Government Pleader, SR.No. 79313

rmi/SJ

MAS/SKN-RSK/SAR2:21.09.2017:5P-9C

W.A. (MD) Nos.714 & 718 of 2015
and

M.P. (MD) Nos.1,1,2 &2 of 2015
and

C.M.P. (MD) Nos.3438 & 3439 of 2016
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