IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23540 of 2014

1.G.Wahid Sherif

2.Mrs.Apsarunnissa

3.Mrs.Meharunnissa .. Petitioners

vs

The Assistant Settlement officer (South)
Office of the Principal Secretary & Commissioner,
of Land Survey and Settlement, Chepauk,
Chennai-600 005.
.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein relating to his order in R.C.I.(1)4999/2012 dated 20.03.2014 and quash the same and consequently direct the respondent to issue patta in favour of the petitioners in respect of lands comprised in S.No.364/1 measuring an extent of 2.07.5 hectares and lands comprised in S.No.364/2 measuring an extent of 0.42.0 hectares situated at presently Marudhandapalli Village, Hosur Taluk, Krishnagiri District.

For Petitioners : Mr.N.Kumar Rajan
For Respondent : Mr.A.Shrijayanthy
Special Government Pleader

O R D E R

The order of rejection in respect of the grant of patta in favour of the writ petitioners issued by the respondents in proceedings dated 20.03.2014, is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner states that the landed property comprised in S.No.364/1 measuring an extent of 2.07.5 hectares and lands comprised in S.No.364/2 measuring an extent of 0.42.0 hectares situated at presently Marudhandapalli Village, Hosur Taluk, Krishnagiri

District were originally owned and possessed by one Mr.Mohamed Ghouse Sahib, the father of the writ petitioners, who subsequently acquired the same by way of a registered Sale Deed dated 01.05.1954 in Doc.No.825/1954 from Syed Rahim Sahib and Abdul Saleem, who were the predecessors in title of the said properties from the year 1940 and after the death of Mr.Mohamed Ghouse Sahib, the same was subsequently inherited by the petitioners and they are in peaceful possession and enjoyment of the property till today.

3.The learned counsel appearing for the writ petitioner states that the writ petitioners had submitted an application for grant of Patta in the year 2010 itself. However, the authorities have not passed any orders in respect of the application submitted by the writ petitioners. Thereafter, they filed WP.No.14237 of 2011 and this Court passed an order on 25.08.2011, directing the authorities to consider the application by providing an opportunity to the writ petitioners and pass orders on merits and in accordance with law.

4.Further, the learned counsel for the petitioners state that after filing of the contempt petition by the writ petitioners, the authorities had undertaken the process of hearing and passed an impugned order, rejecting the claim of the writ petitioners for grant of patta. However, it is admitted that an opportunity of hearing was provided to the writ petitioners, which is found in the impugned order itself.

5.The learned counsel for the petitioners state that the writ petitioners are in possession and enjoyment of the property described in the writ petition from the year 1954 onwards. Thus, they are entitled for Patta in accordance with the provisions of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948.

6.The learned Special Government Pleader appearing on behalf of the respondents opposed the contention by stating that the writ petitioners are not entitled for the relief as such sought for in this writ petition, in view of the fact that the authorities had considered the merits and demerits of the case and adjudicated the issues by providing an opportunity to the writ petitioners and found that the writ petitioners had not filed any application within the cut-off date fixed by the Government for grant of patta in G.O.Ms.No.714, Commercial Tax Department dated 29.06.1987. The writ petitioners had not filed any appeal before the Cut- off date i.e., 20.08.1987.

7.The counter affidavit filed on behalf of the respondents states that during the settlement all lands in the Estate were taken over by the Government vide Section 1 (4) of Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act 1948. The settlement process carried out from 1951 to 1958 and the pattas were granted as per the prescribed Rules to landholders based on their possession and enjoyment. Further, if any aggrieved persons from and out of the order of the Settlement Authority, should prefer an appeal before the Settlement Officer within a period of 30 days and a time limit for filing of such an appeal was extended till the year 1987 and final date was fixed as 20.08.1987 for preferring an appeal. However, the writ petitioner had not preferred any appeal within the cut-off date fixed by the Government for grant of patta. Now after a lapse of about 30 years from the cut-off date stipulated by the Government, this Court cannot entertain the claim of the writ petitioners for grant of patta. In the event of extending the benefit, now after a lapse of about 30 years from the cut-off date, the same will create a wrong precedent and other similarly placed persons will also claim the same benefit. In the event of opening such issues, which were closed long back, the Court cannot pave way for all other similarly placed persons for the same benefit.

8.In view of the said principle, the claim made by the writ petitioners in the present writ petition deserves no consideration. In view of the fact that the writ petitioners had not approached or filed an appeal before the competent authorities within the cut-off date notified by the Government for grant of Patta.

9.Thus, the writ petition is devoid of merits and accordingly, the same stands dismissed. No costs.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

sk/kak
To
The Assistant Settlement officer (South)
Office of the Principal Secretary & Commissioner,
of Land Survey and Settlement, Chepauk,
Chennai-600 005.

+1 CC to M/s. Kumar and Baskar, Advocate sr 64020.
+1 CC to Spl. Govt. Pleader sr 64140.

W.P.No.23540 of 2014

NMI(CO)
SP(10/10/2018)