

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 07.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.17333 of 2008

Thulasi

...Petitioner

Vs

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai 600 005.
 2. The Executive Officer,
Mahyarujuneswarasamy Temple,
Pettaivaithalai,
Srirangam Taluk,
Tiruchirappalli District.
- ...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 06.05.2008 in Letter No.K3/9417/2008, passed by the 1st respondent, quash the same and directing the first respondent to issue patta to the petitioner by considering the claim of the petitioner.

For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.D.Suryanarayanan, AGP, for R1
Mr.P.Gopalan, for R2

ORDER

Heard the learned counsels appearing on either side and perused the materials available on record.

2. The prayer in the Writ Petition is to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent passed in letter No.K3/9417/2008 dated 06.05.2008 and quash the same and further direct the first respondent to issue patta in favour of the petitioner.

3. The petitioner would claim that her father-in-law got two sons, viz., Kunju Pandidhar and Sathan and they were surviving as Barbers in Madhyarujunesawarasamy Temple situated at

Pettaivaithalai, the second respondent herein and she got married to the said Sathan. Recognising their service, the Trust Board of the second respondent Temple had assigned them a land having an extent of 1.04 acre, comprised in Survey No.120-A in Pettaivaithalai Village as inam. Since then they have been in possession and enjoyment of the same.

4. It seems that the petitioner approached the first respondent seeking issuance of patta under the provisions of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963. The same was rejected by the impugned order on the ground that the petitioner is claiming patta after a lapse of 35 years.

5. The learned counsel for the petitioner by placing reliance on the decisions of the learned Single Judge of this Court in W.P.No.2751 of 2014, dated 12.08.2015 in the case of J.Govindaraj and others vs. The Additional Chief Secretary and Commissioner of Survey and Settlement, Chepauk, Chennai and others and W.P.Nos.21328 and 33136 of 2014 in the case of Model Education Society vs. The Principal Commissioner, Survey and Settlement, Ezhilagam, Chennai, would contend that there is no time limit for seeking patta. Hence, the order impugned in this Writ Petition is liable to be set aside.

6. The learned Additional Government Pleader appearing for the respondents would submit that the issue involved in this Writ Petition was already considered by a Division Bench of this Court in the case of Nawab Wallajah Sahib Pallivasal vs. the Commissioner of Land Administration/Board of Revenue and others reported in MANU/TN/1662/2019 and by following the decision of the Hon'ble Apex Court, the Division Bench has held that the patta cannot be issued after a lapse of 2 or 3 decades. The decision would run thus:-

"26. In AIR 2009 (SC) Suppl. 241 and MANU/SC/0752/2014 : AIR 2015 (SC) 102 (Supra), the Hon'ble Apex Court set aside the orders passed in exercise of the suo motu judicial power after lapse of 17 and 13 years respectively. The same view was taken by the Supreme Court in the latest decision reported in 2018 SAR Civil 360. The Rajasthan High Court in MANU/RH/1226/2015: AIR 2015 Rajasthan 179 (Supra) has gone to the extent of holding that even if the fraud is alleged, the power must not be exercised after unreasonable period, such as after several decades. In similar circumstances, the Division Bench of this Court in MANU/TN/0147/2016 : 2016 (2) L.w. 45 (Supra), rejected the prayer sought for grant of Patta after six decades. In the matter on hand, indisputably the appellant challenges issuance of patta after a lapse of 54 years.

27. The learned Single Judge by following the principles laid down in the decisions of the Hon'ble Supreme Court and after analysing the relevant provisions of the Wakf Act, dismissed the writ petition. Taking note of the above facts, we find no ground to interfere with the impugned judgment. In that view, the writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

7. For the above reasons, I am not able to follow the decisions relied upon by the learned counsel for the petitioner. In the instant case, admittedly, the petitioner approached the Authorities for issuance of patta after 35 years of introduction of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and the same was rejected on the ground of delay. In view of the decision of the Division Bench referred above, this Court finds no ground to set aside the impugned order. In fine, the Writ Petition fails and it is dismissed. No costs.

pvs

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai 600 005.

2. The Executive Officer,
Mahyarujuneswarasamy Temple,
Pettaivaithalai,
Srirangam Taluk,
Tiruchirappalli District.

+1cc to Mr.R.Neelankandan, Advocate, SR.No.68754

+1cc to Mr.D.Gopalan, Advocate, SR.No.67443

+1cc to the Govt.Pleader, Vide Sr.No.68104

W.P.No.17333 of 2008

Kak (24/09/2019)