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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.40590 of 2015

and

M.P.No.1 of 2015

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

... Petitioners

Vs.

1.The Additional Chief Secretary and Commissioner of Land
Administration,

Chepauk, Chennai - 600 005.

2.Director of Survey and Settlement,
Survey House, Chennai - 600 005.

3.The District Revenue Officer,
Tiruvallur District.

4.The Thasildhar,
Gummidipoondi Taluk,
Thiruvallur District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for records relating to the 1st respondent's Letter No.R.Dis.K1/27783/2012 dated 20.11.2015 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.1 etc., over an extent of 872.35 acres of Vaniyamalli Village, Gummidipoondi Taluk, and Tiruvallur District pursuant to the petitioners representation dated 29.04.2015.



For Petitioners : M/s.R.Nirmala Devi

For Respondents : M/s.A.B.Reehana Beghum,
Government Advocate.

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O R D E R

Heard M/s.R.Nirmala Devi, learned counsel appearing for the petitioners and M/s.A.B.Reehana Beghum, learned Government Advocate appearing for the respondents.

2.The petitioner has been filed this writ petition challenging the order passed by the first respondent dated 20.11.2015, by which an appeal petition filed by the petitioner against the order of rejection of grant of ryotwari patta was dismissed.

3. The first contention of the learned counsel for the petitioner is that in respect of the orders passed by this Court on earlier occasion, concerning the very same subject matter, once again the first respondent passed an order rejecting the appeal on the ground that the claim for grant of ryotwari patta is barred by limitation. In this regard, the learned counsel referred to an order passed by this Court in W.P.No.28075 of 2012 dated 24.03.2015. Further, it is submitted that first respondent while passing the impugned order, did not take into consideration of the documents filed in the form of typed set of papers enclosing legal heirship documents, other documents and records to establish the petitioners right for grant of ryotwari patta. Further the written arguments submitted by the petitioner was also not taken into consideration while passing the impugned order. The first question to be decided is whether the first respondent has followed the order and direction issued in W.P.No.28075 of 2012, dated 24.03.2015 i.e., whether the case was decided on merits or rejected solely on the ground that there is no power to take up an application for grant of ryotwari patta under the said Act, after the period of 56 years.

4. On the perusal of impugned order, it is seen that the first respondent has not only rejected the application on the ground of lack of jurisdiction of the Settlement Officer to condone the delay in accepting an application for grant of ryotwari patta but the first respondent has also considered the merits of the claim made by the petitioner and also discussed about the documents filed by the petitioner and as held, it is not clear as to why the petitioners have claimed patta in respect of the smaller extent of land, which is assessed in the name of the predecessor in title, Thiru. Kali Venkatasamy Reddy purchased the entire Vanniamalli Village and it is not explained, why they have not objected for the grant of ryotwari patta to other persons in respect of the lands other than those



now being claimed by them in the same village. All this lends credence to the claim that the petitioners have now selected the lands which were settled as Government Unassessed Waste and Anadheenam lands, especially, when they claimed Thiru Kali Venkatasamy Reddy purchased entire Village. Apart from that the first respondent has also pointed out that the petitioners were not in a position to establish the claim over the property in question by producing link documents. That apart, other documents which are filed before the first respondent were taken note and found to be irrelevant as it does not concern the petitioner and it is in a different taluk. Therefore, the first contention raised by the learned counsel for the petitioner that the appeal petition has dealt with only on the ground whether the application is within the time or not, is incorrect contention as the first respondent has dealt with the merits of the matter.

5. The second issue is on the question of delay, the first respondent has pointed out that the settlement officer has no power to condone the delay to entertain an application under Section 11 of the Act, by virtue of the amendment in G.O.No.3190, Revenue, dated 17.10.1955. Thus, it is stated that the Settlement Officer has no power to condone the delay neither the Director of Settlement nor the Board of Revenue had any power to condone that delay. Further it is submitted that as per the amended Rule issued in G.O.Ms.No.714, CT & RE Department, dated 29.06.1987, the last date for applying with condone delay petition is 20.08.1997 and the petitioners have not made any application before the said date. Thus, in the absence of any link documents produced by petitioner to substantiate their right, title and interest to the property, this Court find that there is no error in the decision making process by the first respondent. If still the petitioners assert that they are entitled to the subject property then the remedy is elsewhere and the same cannot be adjudicated in a writ petition.

6. For the above reasons, the prayer sought for in the writ petition cannot be granted and accordingly, the writ petition is dismissed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

Pns



To

1.The Additional Chief Secretary and Commissioner of Land
Administration,
Chepauk, Chennai - 600 005.

2.Director of Survey and Settlement,
Survey House, Chennai - 600 005.

3.The District Revenue Officer,
Tiruvallur District.

4.The Thasildhar,
Gummidipoondi Taluk,
Thiruvallur District.

+lcc to Government Pleader SR.No.24098

W.P.No.40590 of 2015

PP(CO)
GMY(14/07/2020)