



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.13513 of 2013

and

M.P.Nos.1 and 2 of 2013

C.R.Narasimulu Naidu

... Petitioner

Vs.

Special Commissioner for
Land Administration
Office of the Special Commissioner
for Land Administration
Chepauk, Chennai - 600 005.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order dated 14.02.2013 Ref.Rc.No.K1/16313/2012 passed by the respondent authority and quash the same and consequently direct the respondent authority to pass orders on merit on the basis of existing old patta and kist receipt available in the name of the petitioner's mother for grant of patta in respect of the land measuring 40 cawnies equivalent to 53.20 Acres covered in old Paimash Nos.481/1, 481/1A and 481/1B, correlated to Survey Nos.295/3, 297, 298/2, 299/4, 296, 300/1, 286/88, Morai Village, Ambattur Taluk, Thiruvallur District, in favour of the petitioner within a time to be fixed by this Court.

For Petitioner : Mr.S.Thanka Sivan

For Respondent : Mr.M.R.Gokul Krishnan
Government Advocate

O R D E R

This writ petition is filed to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order dated 14.02.2013 in Ref.Rc.No.K1/16313/2012 passed by the respondent authority and quash the same and consequently, to direct the respondent authority to pass orders on merits on the basis of existing old patta and kist receipt



available in the name of the petitioner's mother for grant of patta in respect of the land measuring 40 cawnies equivalent to 53.20 acres covered in old Paimash Nos.481/1, 481/1A and 481/1B, correlated to Survey Nos.295/3, 297, 298/2, 299/4, 296, 300/1, 286/88, Morai Village, Ambattur Taluk, Thiruvallur District, in favour of the petitioner within a time to be fixed by this Court.

2. The case of the petitioner is that his mother late Kuppammal was the original owner of the land comprised in old Paimash Nos. 481/1, 481/1A and 481/1B correlated to Survey Nos. 295/3, 297, 298/2, 299/4, 296, 300/1 and 286/88 to an extent of 40 cawnies equivalent to 53.20 Acres situated at Morai Village, Ambattur Taluk, Thiruvallur District. She was granted patta vide Patta No.444 in the year 1940. The subject land was notified under the Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act XXVI of 1948 with effect from 01.10.1951 and Ryotwari Settlement was introduced. In the year 1944, the entire land had been taken over by the Military Department and subsequently, they vacated from the locality. During that period, the metes and bounds pertaining to very large extent of lands were erased and leveled by the Military Department. Therefore, the boundaries could not be fixed for the respective land owners and approximate extents were continued to be in cultivation of their respective owners. As far as the petitioner's mother is concerned, she was an illiterate lady and approaching the authorities concerned repeatedly for grant of patta.

3. While being so, she passed away on 04.11.2001 and the petitioner being her legal heir pursuing the proceedings. The petitioner's mother also filed writ petition in W.P. No. 11520 of 2000 was pending before this Court and after she died, the petitioner and his brother got himself impleaded as parties in the said writ petition. Thereafter, this Court by an order dated 06.03.2002 in W.P. 6305 of 2002, directed the State Government to initiate appropriate enquiry and dispose of their representations on merits and in accordance with law. Thereafter, the petitioner was informed by the letter dated 21.06.2002 from the Secretary to the Government, Revenue Department, to approach the respondent herein. Thereafter, this Court by an order dated 30.10.2003 in W.P.No.30245 of 2003 directed the Assistant Settlement Officer to consider the representations of the petitioner on merits and in accordance with law. However, the Assistant Settlement Officer, without considering the claim petition on merits and decided the matter on technical issue as the claim was barred by limitation by an order dated 19.10.2005.

4. Aggrieved by the same, the petitioner filed appeal. However, the same was rejected by an order dated 16.04.2009



without assigning any valid reason except for limitation. Therefore, he filed writ petition in W.P. No.18299 of 2009 and this Court by an order dated 09.09.2009 set aside the order passed by the respondent herein and remitted back the matter to the respondent herein for fresh consideration and pass appropriate orders on merits and in accordance with law.

5. On the enquiry, the petitioner appeared and submitted all the documents. However, by an order dated 28.05.2010, the respondent rejected the claim of the petitioner. Again, the petitioner filed writ petition challenging the said order, thereby rejecting the request to review the order passed by the respondent herein in W.P.No.19836 of 2010. Again, this Court by an order dated 07.06.2012 directed the respondent herein to pass order afresh on the review petition filed by the petitioner.

6. Learned counsel for the petitioner submitted that again the respondent herein rejected the claim of the petitioner only on the ground of limitation. When this Court, specifically directed the respondent herein to pass order on merits and not reject the claim of the petitioner on the ground of delay alone.

7. The respondent filed counter affidavit and submitted that the petitioner has not produced any documents in support of his claim that his mother was the original owner of the subject land. The alleged Patta No. 444 produced by the petitioner is nothing but Rokka Patta issued by the Shrotriumdar, which is not a conveyance of title. The said Patta was issued only for a period from 01.07.1943 to 30.06.1944 to collect land revenue from the ryots. The Ryotwari Settlement was introduced in the calendar year 1960 and completed the settlement process in the calendar year 1980. During the settlement process, the land in Survey Nos.295/3, 297, 299/4, 304, 305/1, 296, 300 and 286/88 to an extent of 66.16 acres was settled and classified as Government Poramboke - Grazing Ground. The petitioner has not furnished any proof to show that his mother was in possession and enjoyment of the subject land till her lifetime. Therefore, the respondent rightly rejected the claim of the petitioner.

8. On perusal of the impugned order, revealed that the respondent though discussed about the merits of the claim made by the petitioner, observed that the Government have amended the rules for the Ryotwari Settlement under the Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act XXVI of 1948 was completed in the year 1980. The Government have amended the rules to the Act extending time to apply for Ryotwari Patta to enable the ryots land holders to get Ryotwari patta under the Act. Finally, the Government have amended the rules to the Act under the powers conferred in Section 67 of the Act and issued a Notification in G.O.Ms.No.714, Commercial Taxes and Religious



Endowment Department, dated 29.06.1987. As per the said notification, 20.08.1987 was the last date to apply for patta with a delay condonation petition. The petitioner has filed petition only in the year 2003 after a delay of 16 years, which is not a normal delay to be condoned in law.

9. This Court by an order dated 09.09.2009 in W.P. No.18299 of 2009 directed the respondent herein to consider the claim of the petitioner on merits and not reject on the ground of delay. Again, this Court by an order dated 07.06.2012 in W.P.No.19836 of 2010 directed the respondent herein to consider the claim of the petitioner on merits and in accordance with law. However, the respondent herein once again rejected the claim of the petitioner on the ground of delay.

10. In view of the above, the impugned order dated 14.02.2013 in Rc.No.K1/16313/2012 passed by the respondent is set aside and the matter is remanded back to the respondent for passing orders after giving full opportunity of hearing to the petitioner. It is made clear that the petitioner is directed to submit all the relevant documents to prove his claim and on receipt of the same, the respondent is directed to consider and pass orders on merits and in accordance with law, within a period of sixteen weeks from the date of receipt of a copy of this order.

11. Accordingly, the writ petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

dm

To

The Special Commissioner for Land Administration,
Office of the Special Commissioner
for Land Administration,
Chepauk, Chennai - 600 005.

+1cc to M/s.S.Thanka Sivan, Advocate, S.R.No.51192

W.P.No.13513 of 2013

KSM(CO)
SU(26/10/2021)