



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021
CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.5702 of 2021

1. P.Krishnamurthy

2. P.Vanaja

Represented by her Power Agent

(Unregistered Power dated 08.12.2020)

P.Yeshwanth

...Petitioners

-Vs-

1. The Principal Commissioner and Commissioner
Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The Principal Secretary / Commissioner of
Survey and Settlement,
PWD Estate,
Chepauk,
Triplicane,
Chennai - 600 005.

3. The Director of Survey and Settlement,
Survey House,
Chepauk,
Chennai - 600 005.

4. The District Revenue Officer,
Master Plan Complex,
NH-205, Chennai - Tiruttani Highway,
Thiruvallur - 602 001.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents especially the orders of the first respondent dated 02.12.2020 in ref.Lr.No.K1 / 11201 / 2020, and quash the same and further direct the third respondent to grant patta under the provisions of Act XXVI of 1948.

For Petitioners : Mr.V.Ramesh for
Mr.T.Thiyagarajan

For Respondents : Mr.A.Selvendran
Special Government Pleader.



ORDER

WEB COPY
This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondents especially the orders of the first respondent dated 02.12.2020 in ref.Lr.No.K1 / 11201 / 2020, and quash the same and further direct the third respondent to grant patta under the provisions of Act XXVI of 1948.

2. Heard Mr.V.Ramesh, learned counsel appearing for the petitioners and Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents.

3. This writ petition has been filed challenging the order passed by the first respondent, dated 02.12.2020 in ref.Lr.No.K1 / 11201 / 2020, thereby rejected the claim of the petitioner, dated 18.08.2020 with reference to the G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987 and closed for the reason that the Act had already attained its finality and the petitioners' claim could not be considered at its distance of time.

4. Though no reasons assigned in the impugned order, the counter filed by the respondents revealed that the Ryotwari settlement for Kanjivoyal village was introduced in the village in fasali 1368 corresponding to the calendar year 1958 as per the Settlement Register of Thirupalaivanam village published on 21.03.1962.

5. Whereas, the petitioner submitted a representation only on 18.18.2020 before the first respondent only after six decades of the publication of the said Settlement Register of Kanjivoyal village and after 34 years from the last date i.e.20.08.1987, fixed for the receipt of such applications as per G.O.Ms.714 Commercial Taxes and Religious Endowments Department, dated 29.06.1987. Therefore, the petition submitted by the petitioner dated 18.08.2020 is prima facie barred by limitation and by delay latches.

6. Further revealed that in the similarly placed matter in W.A.No.96 of 2015, upheld the order of rejection on the ground of delay and also confirmed by the Hon'ble Supreme Court of India in Special Leave to Appeal No.13454 of 2016 by an order dated 09.02.2016.

7. Considering the very same issue involved, this Court in W.P.No.7856 of 2013, dated 27.06.2014 passed the following order:



WEB COPY

"6. Admittedly, the request made by the petitioners has not been considered on merits. The impugned order does not indicate as to whether any claim by the third party has accepted in. Therefore, this Court is not inclined to go into the said issue. Considering the very same issue, this Court in W.P.No.4980 of 2012 dated 09.03.2012, was pleased to pass the following order, after placing reliance upon the earlier decisions:

"4. Learned counsel for the petitioner at the outset would refer to the impugned order dated 31.01.2012, wherein his request for grant of patta has been summarily rejected on the ground that any application filed beyond 20.08.1987 would be rejected as time barred. He also points out that when a similar order of rejection was questioned by a person like that of the petitioner herein before this Court, this Court by a detailed order, set aside the same and remanded the matter to the authorities concerned with a direction to consider the application without reference to the delay. Therefore, he submits that this order is liable to be interfered with.

5. I find that the rejection has been made only on the ground that the application has been filed beyond the time. In this connection, I refer to the order passed by this Court on 21.02.2012 in W.P.No.3989 of 2012, wherein this Court had an occasion to deal with a similar order of rejection and set aside the order, after finding that the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, does not prescribe any time limit for filing a claim petition for the purpose of issuance of patta. Therefore, when the application filed by the petitioner herein for patta has been rejected as it is time barred, the order suffers from patent irregularity. Further, the order of rejection has been passed without hearing the petitioner concerned.

6. Therefore, in the light of



WEB COPY

the order passed by this Court on 21.02.2012 in W.P.No.3989 of 2012, this Writ Petition is allowed. The impugned order dated 31.01.2012 is set aside and the matter is remanded to the first respondent with a direction to consider the application afresh and in accordance with law after affording opportunity to the petitioner, within a period of eight weeks from the date of receipt of a copy of a order, without rejecting on the same ground of limitation once again.

The writ petition is allowed in the above terms. Consequently, connected Miscellaneous Petition is closed. No costs.

7. In the light of the decision referred supra, the order impugned in this writ petition is set aside and the petitioner is directed to resubmit the papers within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to decide the application on merits and in accordance with law, within a period of twelve weeks thereafter. It is made clear that this Court has not expressed any opinion on the merits of the matter. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed."

8. Following the same, the impugned order is set aside as it is not passed on merits. That apart, the petitioner was not given opportunity of hearing and without conducting any enquiry, summarily rejected.

9. It is also made clear under Section 7A of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act XXVI of 1948, the Board of Revenue shall have power, to give effect to the provisions of this Act and in particular to superintend the taking over of estates and to made due arrangements for the interim administration thereof.

10. In view of the above, the impugned order passed by the first respondent, dated 02.12.2020 in ref.Lr.No.K1 / 11201 / 2020 cannot be sustained and it is liable to be set aside. It is remanded back to the first respondent to consider afresh, after issuance of notice to the petitioners and after affording



opportunity of hearing to the petitioners, pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

WEB COPY

11. In view of the above, this writ petition stands allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mn

To

1. The Principal Commissioner and Commissioner
Land Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The Principal Secretary / Commissioner of
Survey and Settlement,
PWD Estate,
Chepauk,
Triplicane,
Chennai - 600 005.
3. The Director of Survey and Settlement,
Survey House,
Chepauk,
Chennai - 600 005.
4. The District Revenue Officer,
Master Plan Complex,
NH-205, Chennai - Tiruttani Highway,
Thiruvallur - 602 001.

+1cc to the Government Pleader, SR.NO.60281

+1cc to Mr.T.Thiyagarajan, Advocate, SR.NO.60389

W.P.No.5702 of 2021

PA(CO)

KKV/30/11/2021