



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
W.P.No.29875 of 2011

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1.Y.Victor (deceased)

2.D.V.Mercy

3.Carolin

4.Arul yagappa

5.Mariya Durairaj

.. Petitioners

(P2 to P5 are submitted as

LRs of deceased Sole Petitioner as

per the order dated 12.12.2019

made in MP.1/2013 n WP.29875/11 by AQJ)

Vs.

Principal Secretary and Commissioner
of Land Administration

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 relating to the order passed in Rc. No.K1/8639/2011 dated 7.4.2011 by the Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai-5, the respondent herein and quash the same and consequently direct the respondent herein or his subordinates to decide the claim submitted by the petitioner herein dated 1.4.2011 claiming ryotwari patta with respect to the land comprised in Old S. No.435, New S. No.3089, T.S. No.21, Neelangiri Therku Thottam Village, Tanjore Taluk and District on merits and without reference to the question of limitation.

* * *

For Petitioner : Mr.R.Sivaraman

For Resppondent : Ms.A.Madhumathi

Special Government Pleader

O R D E R

This writ petition is filed for issuance of a writ of certiorarified mandamus to quash the impugned order passed by the respondent dated 7.4.2011 and consequently to direct the respondent to decide the claim submitted by the first petitioner dated 01.04.2011 for issuing a ryotwari patta to the petitioners on merits without reference to the question of limitation.



2. Brief facts that are necessary for the disposal of the writ petition are as follows: The petitioners state that an extent of 40 cents in old S. No.435 was purchased by first petitioner's grandfather by name Ponnusamy Nadar out of a total extent of 94.74 Acres from one Vimala Nandaji Saheb, who acquired title under a registered document dated 08.06.1931. It is the case of the petitioners that the property purchased by the first petitioner was also allotted to the vendors of first petitioner's grandfather in the interim final decree that was passed in G.S. No.3 of 1919 on the file of District Court, Tanjore. Claiming title in favour of first petitioner's grandfather by a settlement deed stated to have been executed by one Arulanandhammal and two others in the year 1952, the petitioners claimed absolute ownership over the property. It is stated that the entire village in which the petitioners land is located was notified as an estate. Therefore, it is admitted that the land was taken over by the government under Tamil Nadu Estates (Abolition and Conversion Into Ryotwari) Act, 1948.

3. It is admitted by the petitioners that the first petitioner never applied for ryotwari patta by filing a petition before the Settlement Officer, Aranthangi. Though it is stated by the petitioners that the first petitioner had applied for ryotwari patta in respect of other survey numbers and obtained patta, no petition for ryotwari patta in respect of the property in survey No.435 was filed by the first petitioner. Stating that it is a bonafide mistake, the first petitioner has approached the respondent on 25.03.2011 and subsequently by another representation dated 01.04.2011 for issuance of ryotwari patta in respect of the property in Survey No.435.

4. The petitioners state that the property was wrongly classified as 'anadheenam' during the settlement proceedings by the Settlement Authorities. It is stated that they are entitled to apply for ryotwari patta under Section 15(1) of Act 26 of 1948 in respect of the property. The petitioners' representation was rejected by the respondent vide order dated 07.04.2011 on the short ground that the respondent has no power to consider the representation and that therefore, the petition filed by the petitioners is rejected as time barred as per the provisions of Tamil Nadu Act 26 of 1948. Challenging the said order, the present writ petition is filed.

5. Learned counsel appearing for the petitioner raised various grounds.

6. It is stated that the petitioners are in possession and enjoyment of the subject property as absolute owner for a long time and therefore the petitioners' application can be considered, as there is no prohibition under the provisions of Act 26 of 1948 to consider the application at any time. In short, the learned counsel for the petitioners states that



there is no period of limitation prescribed for approaching authorities for issuance of ryotwari patta. The learned counsel further states that the impugned order has been passed arbitrarily without assigning any proper reason or without considering the merits of the case. The learned counsel also submitted that the law is settled to the effect that there is no extinguishment of rights of ryots by the advent of Act 26 of 1948. Learned counsel further submitted that the vesting of land in favour of government is subject to the pre-existing rights of ryots to get ryotwari patta and that therefore when the land does not vest with the government, the petitioners' application for grant of ryotwari patta ought to have been considered by the respondent.

7. It is also stated that the respondents ought to have considered the holdings of each and every ryot and his entitlement to get ryotwari patta and that the application for grant of ryotwari patta cannot be rejected on the ground of delay or limitation. The first petitioner admitted that he never approached the Assistant Settlement Officer or the authorities under the Act 26 of 1948 claiming ryotwari patta at the appropriate time when settlement proceedings were commenced. The Act inter alia provides for a machinery to deal with all the issues relating to grant of ryotwari patta.

8. Section 15 of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, reads as follows:

15. Determination of lands in which the landholder is entitled to ryotwari patta under foregoing provisions. - (1) The Settlement Officer shall examine the nature and history of all lands in respect of which the landholder claims a ryotwari patta under section 12,13 or 14, as the case may be, and decide in respect of which lands the claim should be allowed.

[(2) (a) Against a decision of the Settlement Officer under sub-section (1), the Government may, within one year from the date of commencement of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1954 (Tamil Nadu Act XXXIV of 1954), or from the date of the decision, whichever is later/and any person aggrieved by such decision may, within two months from the date, appeal to the Tribunal:]

Provided that the Tribunal may, in its discretion, allow further time not exceeding six months for the filing of any such appeal:

Provided further that the Tribunal may, in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Settlement Officer was vitiated by fraud or by mistake of



fact.

(b) The decision of the Tribunal on any such appeal shall be final and not be liable to be questioned in any Court of Law.

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9. It is not in dispute that the land in which petitioners seek patta is classified as 'anadheenam'. When the settlement officer after examining the nature and history of the land decides the character of the land, as anadheenam, that decision becomes final at least in respect of the classification of the land. It is also not disputed that the Government also prescribed time limit by executive orders and by way of G.O. Ms. No.714 dated 29.6.1987, it is admitted that, time was extended up to 20.08.1987 for filing appeal challenging the verdict of the Settlement Officer.

10. In the present case, the petitioners have not filed any appeal as against the classification of the land declaring the land as one vested with the government or the proceedings by which the classification was confirmed by the Settlement Officers. It is unfortunate that the petitioners' representation itself was to the appellate authority and therefore, this court cannot entertain a writ petition challenging the order of respondent dismissing the petition on the ground of limitation. If the petitioners are in possession, it is open to them to approach the civil court and establish their title.

11. Hence with liberty to the petitioners to approach the civil court for establishing their title, this writ petition is dismissed. However, there is no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Asr

To

The Principal Secretary and Commissioner
of Land Administration
Chepauk, Chennai - 600 005.

+1cc to Mr.N.Damodaran,Advocate SR.No. 18333

+1 cc to Government Pleader Sr.No. 17765

W.P.No.29875 of 2011

GP1(CO)

A.SK(14.07.2021)