



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 28179 of 2016 and
W.M.P. No. 24316 of 2016

1. E.Ramadoss
2. E.Ravi
3. M.Kutti
4. E.Kannan
5. E.Karunakaran
6. Parvathi

... Petitioners

-Vs-

- 1.The Assistant Settlement Officer (North),
Office of the Principal Secretary,
Commissioner of Land Survey and Settlement,
Chepauk, Chennai-5.

- 2.The Tahsildar,
Taluk Office Ambattur,
Thiruvallur District.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in Na.Ka.E1/4226/ 15 dated 11.07.2016 quash the same and direct the respondents to comply with the orders passed in W.P. No. 15174 of 2011 in its full letter and spirit.

For Petitioner : Mr.S.Ilamparithi

For Respondents : Mr.K.M.D.Muhilan
Government Advocate

O R D E R

The order passed by the first respondent in proceedings dated 11.07.2016 rejecting the claim of the petitioner for grant of patta in respect of Anadheenam land is under challenge in the present Writ Petition.



2. The petitioners state that the land comprised in Survey No.175/1 admeasuring to an extent of 25.30 acres originally belonged to one Smt.Valliammal and she got patta in 1926. Thereafter, Thiru.Rama Reddiyar, who is the father of the sixth petitioner got possession and enjoyment of the said property. After the demise of the said Rama Reddiyar, the petitioners are in possession and enjoyment of the said property. The petitioners further states that the Tahsildar, Ambattur had issued patta in favour of the sixth petitioner in Patta No. 218 on 02.04.2001. Even as per the petitioners, at one point of time, the subject property was classified as Anandheenam and all such lands belonged to the Government with effect from 01.10.1951 as per the notification. The petitioners state that their ancestors are in possession of the land and they are continuing in possession. However, the said fact is disputed by stating that the subject property is situated in Ambattur Taluk and now under the control of the Tamil Nadu Industrial Developmental Corporation. The petitioners approached the first respondent for grant of patta. Earlier, the petitioners filed a Writ Petition in W.P. No. 15174 of 2011 dated 30.06.2011. This court issued a direction to consider the representation submitted by the writ petitioners. Pursuant to the orders of this Court, the first respondent conducted an enquiry. The findings in the impugned order would reveal that the petitioners were not able to submit required documents for the purpose of establishing title. The relevant findings in para 2, 3 4 and 5 in the impugned order dated 11.07.2016 would reveal that the petitioners have not produced relevant documents to establish their title and therefore, the petition filed by the petitioners was rejected.

3. The learned Government Advocate appearing on behalf of the respondents states that all of the petitioner's claims are belated and fake. The claim itself is made after the lapse of many years and the representations are considered based on the orders passed in the Writ Petition to consider the representation, otherwise all the representations filed by the petitioners as well as the similarly placed persons in many other cases are belated and liable to be rejected on that ground alone. The petitioners in the present case have not established their title or otherwise and they have not even produced any document to establish their case. Then the impugned order categorically states that the petitioners were not able to produce the documents and there is no reason to entertain the claim of writ petitioners.

4. The recently developed practice in writ jurisdiction of the High Court under Article 226 of the Constitution of India is that cause of action are attempted to be restored by obtaining



an order from the High Court to consider the representation. Irrespective of the limitation and after a lapse of many years, persons are simply submitting their representations to the authorities and immediately filing a Writ Petition seeking a direction to consider the representations. The High Court also grants such direction sometimes in a routine manner. Such directions provide unnecessary scope for restoration of lapsed cause of action. Thus, the High Court is also expected to be cautious while issuing such direction to consider the representations. Even while entertaining the representations, it is to be looked into whether in the representation, the petitioner has established any right and such right is established within a reasonable time. All these requirements are to be looked into before issuing a direction even to consider the representation.

5. In the event of issuing any direction to consider the representation, the authorities may have no option but to consider the case on merits. After considering the case on merits, another Writ Petition is filed stating that the authorities have committed a mistake by not considering the documents. This is the modus operandi adopted by the litigants at the advice of the legal brains to restore the lapsed cause of action. Such actions can never be appreciated but to be deprecated.

6. The scope of the Writ cannot be expanded so as to restore the dead claims. In the event of such restoration, it will provide cause for illegal claims and the persons who are identifying some lands somewhere which is classified either as Anadheenam or otherwise making a representation based on some documents and in some of the cases, fake documents are created and produced. It would be very difficult for the High Court to ascertain the genuinity of the documents. However, a direction is given to consider the representation. This causes not only inconvenience to the competent authority but provides unnecessary scope for the litigants who are otherwise not eligible to get any such relief under the provisions of the statute.

7. The constitutional Courts across the Country reiterated that any grievances must be redressed within a reasonable period of time. Even in case there is no limitation period prescribed, then also, the litigants must approach the Court of law within a reasonable period of time. In the event of allowing the claim to get lapsed, thereafter, the same cannot be reopened one way or the other by citing the representation or otherwise. Thus, the aggrieved persons, slept over their rights, cannot wake up one fine morning and knock the doors of Court of law for the redressal of their grievances. The rights are to be established



at the earliest possible time or at least within a reasonable period of time. More specifically, in service matters, the employees are very much aware of their service rules and conditions. Ignorance of law can never be pleaded by the employees of the State or Union or its Organizations. Thus, the limitation period though not prescribed, the reasonable period within which, the litigations have been filed, are to be taken into consideration before admitting the writ petitions.

8. However, large number of Writ Petitions are filed in the High Courts, merely on the ground that the writ petitioner sent several representations to the respondents and the respondents have not considered the same, taken a decision and passed orders. Under these pretexts, arguments are advanced by stating that the authorities competent are duty bound to pass orders on the representations. The Courts also in a routine manner issuing a direction to the authorities concerned to consider the representations.

9. Such an exercise of the power of judicial review, under Article 226 of the Constitution of India, cannot be done for the purpose of providing a scope to the litigant to reopen the lapsed cause of actions. Once an aggrieved person allowed the cause of action to get lapsed, then the Courts would not entertain any Writ Petition thereafter under Article 226 of the Constitution of India. Mere submission of representation after number of years would not provide any cause of action for the aggrieved persons for filing a Writ of Mandamus.

10. Most of the times, even these representations are not supported with any acknowledgment. The litigants are typing representations and enclosing it in the typed set of papers and filing it in the Court. In a writ jurisdiction, the High Courts are also not questioning the genuinity of these representations enclosed in the typed set of papers by the litigants. Such a conduct of the litigants amounts to abuse of judicial process. Thus, any representation sent to the authorities competent must be sent and acknowledged by the authorities competent enabling them to deal with the appeal / representation, take a decision and pass orders by following the procedures contemplated under law. Thus, to entertain a Writ of Mandamus, it is a precondition that the aggrieved person should have approached the authorities competent against whom such a direction is sought for and the said representation / appeal acknowledged by the authorities competent must be available in the file of the authority concerned. This being the mandatory requirement for the purpose of entertaining a Writ Petition to direct the authorities concerned to consider the representation, this Court is of the considered opinion that even the legal rights regarding the claim established should also be set out in the writ petition.



Once again, it is a precondition that the person approaching the High Court, under Article 226 of the Constitution of India, must establish his legal right. In the absence of establishing any such legal rights, no Writ Petition can be entertained under Article 226 of the Constitution of India.

11. The remedy of a writ is an extraordinary one, wherein the affected person is expected to approach the High Court soon after the cause of action. Thus, the High Court should not entertain the petitions filed beyond the reasonable period of time and based on the created cause of actions. Creating a cause of action is the recent trend being developed nowadays amongst few persons, who all are attempting to achieve their goal in an indirect manner. Once again, it is the legal brain, which provides such advise to achieve their goals in an indirect manner knowing the fact that they cannot achieve the same directly. All such writ proceedings filed with an intention to achieve the goal in an indirect manner by illegal or irregular means can never be encouraged nor be entertained. All such litigations are to be rejected with heavy costs.

12. The precious judicial hours are to be utilized so as to provide justice to the needy people. High Court being the temple of justice must ensure that speedy justice is provided to all the needy and the persons, who are all approaching the Court with clean hands by establishing their legal rights. Therefore, by curtailing all these unnecessary litigations and by stopping these kind of litigations filed by creating cause of action in respect of lapsed claims, the High Court can utilize the judicial hours for the purpose of rendering complete justice to the poor needy and the litigants, who all are approaching the Court of law with genuine grievances.

13. The High Courts are overburdened on account of such litigations, wherein the cause of actions are created. This being the factum realized and experienced by many legal luminaries and jurists, this Court is of the considered opinion that effective measures are to be taken to control such litigations, which all are consuming the valuable judicial hours and preventing the genuine litigants, who all are longing to get justice. Therefore, in all such cases, wherein the Writ Petitions are filed to consider the representations, these principles are to be followed even at the time of admission itself so as to allow the High Court to render a complete justice to the needy poor and so as to uphold the noble concept of justice as adopted in the preamble of our Constitution of India.

14. Identification of vexatious litigations are also to be done by the High Courts. All such litigations are to be rejected



with heavy costs so as to prevent such vexatious litigants from approaching the Court again and again. Therefore, these measures are also to be taken while entertaining the Writ Petitions under Article 226 of the Constitution of India and all such basic principles are to be looked into even at the stage of admission itself to avoid overburdening and preventing the High Court from rendering justice to the needy and deserving citizen of this great Nation.

15. Even recently, the Honourable Supreme Court of India, in the case of Government of India Vs. P.Venkatesh (Civil Appeal No.2425 of 2019), has held as follows:-

"...This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute...."

16. As far as the present Writ Petition is concerned, the petitioners claimed that the patta was granted in favour of Valliammal in the year 1926. In the year 1951, the land was taken over by the Government and classified as Anadheenam under Section 3 of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948. In view of the fact that there was no claim in respect of the subject property, now the petitioners are claiming after a prolonged period and even during an adjudication before the first respondent they were not able to submit any acceptable documents for the purpose of granting relief. Thus, it is to be construed that the petitioners have approached the authority not only belatedly but attempted to restore the cause of action only based on the direction issued by this court to consider the representation. As elaborately discussed above, such a practice can never be appreciated and the litigants whose rights are infringed are expected to approach the Court of law within a reasonable period of time. Thus, such claims cannot be entertained and as far as the ownership or title of the property is concerned, if at all a person is aggrieved they are bound to approach the competent Court for necessary relief. As far as the present subject property is concerned, it was already classified as Anadheenam as per the information provided by this Court. This being the factum, this Court do not find any infirmity as such in respect



of the order impugned passed by the first respondent.

17. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vji / nti

To

1.The Assistant Settlement Officer (North),
Office of the Principal Secretary,
Commissioner of Land survey and Settlement,
Chepauk, Chennai-5.

2.The Tahsildar,
Taluk Office Ambattur,
Thiruvallur District.

+1cc to Mr.S.Ilamparithi, Advocate Sr No.49255

W.P. No. 28179 of 2016
and
W.M.P. No. 24316 of 2016

PCH (CO)
PR (25/10/2021)