



W.P.No.35303 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

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R.Jeyachandran

....Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By the Secretary to Government,
Revenue Department,
Fort St. George, Chennai - 9

2. The Special Commissioner,
Commissioner of Land Administration,
Chepauk, Chennai - 600 005

3. The Tahsildar,
Tambaram Taluk,
Tambaram

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in R.Dis.(K1)/51535/2001 on the file of the Second



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respondent and issue a writ of certiorari or an other order in the nature of a writ or order and quash the order dated 20.12.2002 passed by the 2nd respondent.

For Petitioner : Mr.Manoj Sreevalsan

For Respondents : Mr.A.Selvendran
Special Government Pleader
for R1 to R3

ORDER

The petitioner in this writ petition challenges the proceedings of the 2nd respondent dated 20.12.2002.

2. The case of the petitioner is that he is the absolute owner of Plot No.11-A comprised in TS No.113 in S.No.84/2 measuring an extent of 2898 Sq.ft. This property was originally part of a larger extent of land measuring 87 cents. This property was sold to one Aranganathan through a registered sale deed dated 08.06.1972.



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3. The above said Aranganathan was served with a notice dated 27.02.1973 by the Assistant Settlement Officer under Section 13(1) of Act 30 of 1963, calling upon the said Aranganathan to attend an enquiry for the issuance of Ryotwari patta. The enquiry was conducted for Survey No.84/2 along with other Survey numbers and orders were passed on 24.05.1973 by the Assistant Settlement Officer in respect of various survey numbers. However, insofar as Survey No.84/2 is concerned, it is mentioned in the order that separate orders will be issued.

4. In the meantime, the above said Aranganathan developed a layout after getting necessary sanction and the plots were sold to various persons. The petitioner purchased Plot No.11 A through a registered sale deed dated 05.09.1983.

5. The Assistant Settlement Officer, Thiruvannamalai,



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issued a notice under Act 30 of 1963 covering various town survey numbers which formed part of Survey No.84/2. An order was passed on 30.09.1988. In the said order, various properties were classified as house site poramboke. While undertaking this process, the property of the petitioner situated at TS No.113 was not added and in view of the same, the said order did not apply to the property belonging to the petitioner.

6. Various owners who were aggrieved by the order passed by the Assistant Settlement Officer, preferred an appeal before the Minor Abolition Tribunal, Chengalpattu. The Tribunal by an order dated 06.09.1993, allowed the appeals and remanded the matter back to the file of the Assistant Settlement Officer. The matter was once again taken up by the Assistant Settlement Officer, Thiruvannamalai and after due enquiry, he issued pattas to the plot owners under Section 8(1) of Act 30 of 1963 by order dated 30.06.1994. This order has become final and thus, the plot owners of TS Nos.96, 97, 98, 100, 101, 102, 114



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and 115 have become the ryotwari patta holders with respect to their properties.

7. The plot belonging to the petitioner was not declared to be a house site poramboke and hence, he never had an opportunity to go before the Tribunal and file an appeal and therefore, when the matter was remanded back to the file of the Assistant Settlement Officer, there was no occasion for the Assistant Settlement Officer to go into the claim made by the petitioner with respect to his property. The petitioner was awaiting for a separate order to be passed with respect to his property, since such a finding was given by the Assistant Settlement Officer when previous orders were passed on 24.05.1973.

8. With the above background, the petitioner made a representation dated 20.01.2000 to the Special Commissioner and Commissioner of land administration seeking for the issuance of



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patta. This representation was forwarded to the Assistant Settlement Officer and the Assistant Settlement Officer in terms of the provisions of Act 30 of 1963 conducted an enquiry and on satisfying himself that the petitioner has made out a case, granted ryotwari patta in the name of the petitioner for the subject property through proceedings dated 19.07.2000.

9. The grievance of the petitioner is that he received a notice dated 29.07.2002 issued by the 2nd respondent calling upon the petitioner to give his objections for the proposed suo-motu revision against the order passed by the Assistant Settlement Officer on 19.07.2000. The petitioner gave his reply on 15.08.2002. The 2nd respondent proceeded to pass the impugned order dated 20.12.2002 cancelling the patta issued in favour of the petitioner by the Assistant Settlement Officer, Thiruvannamalai. Aggrieved by the same, the present writ petition was filed before this Court.



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10. A counter affidavit has been filed by respondents 1 to

3. A stand has been taken by the respondents to the effect that the Assistant Settlement Officer had conducted the enquiry on the petition given by the petitioner without any permission or authority. It is further stated that the property in question is categorized as a house site poramboke and the petitioner did not have any title over the property on the notified date in the year 1965. It is further stated that the suo-motu power of revision was invoked since the respondents found that the Assistant Settlement Officer had passed an order without jurisdiction. Hence, the respondents have justified their action to initiate suo-motu revision by virtue of Section 6(c) of Act 30 of 1963. Accordingly, the respondents have sought for the dismissal of this writ petition.

11. Heard Mr.Manoj Sreevalsan, learned counsel for the petitioner and MR.A.Selvendran, learned Special Government Pleader for respondents 1 to 3.



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12. When this writ petition was taken up for final hearing on 11.07.2022, this Court passed the following order :-

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents.

2.The main issue that is involved in this writ petition pertains to the jurisdiction exercised by the 2nd respondent under Section 6(c) of Act 30 of 1963, wherein, he has invoked the suo motu powers to cancel the patta that was issued in favour of the petitioner by the Assistant Settlement Officer, through proceedings dated 19.07.2000.

3.The learned counsel for the petitioner submitted that such a power cannot be invoked where the order passed by the Assistant Settlement Officer should have been challenged before the Tribunal by way of an appeal under Section 11(3) of the Act and that bar is contained under Section 6(c) of the Act.

4.Paragraph No.10 of the counter affidavit does



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not sufficiently answer this jurisdictional issue raised by the petitioner.

5.The learned Special Government Pleader seeks time to clarify this Court on this issue.

6.Post this case under the caption 'Part Heard Cases' on 15.07.2022.

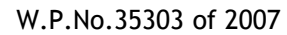
13. When the matter was taken up for hearing today, the learned Special Government Pleader appearing on behalf of respondents submitted that by virtue of Act 30 of 1963 read with the Government Gazette Notification No.331 dated 01.12.1980, specific powers have been conferred to the Commissioner of Land Administration to exercise the jurisdiction and powers and duties performed by the Board of revenue under the provisions of the Act and Rules and accordingly, the power was invoked by the 2nd respondent under Section 6(c) of the Act. The learned Special Government Pleader submitted that the Assistant Settlement Officer did not have any jurisdiction to grant patta to the petitioner since the predecessor in interest of the petitioner



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had sold the land during the currency of the settlement proceedings and the issuance of patta to the petitioner is illegal and invalid. It is under these circumstances, the 2nd respondent had invoked the suo-motu power under Section 6 (c) of the Act 30 of 1963. It was further submitted that the Assistant Settlement Officer did not even care to look into the classification of the land on the notified date and also did not take into consideration the fact that the petitioner did not have the right for both the warams as on the notified date. Hence, it was contented that the entire order passed by the Assistant Settlement Officer is vitiated. In view of the same, the learned Special Government Pleader sought for the dismissal of the writ petition.

14. In the present case, the crux of the issue revolves around the power and jurisdiction of the 2nd respondent to invoke the suo-motu power of revision under Section 6(c) of the Act 30 of 1963. For proper appreciation, Section 6 of the Act is



6. [Powers of control of the Board of Revenue.] - [The Board of Revenue] shall have power -

(b) to issue instructions for the guidance of [the Settlement Officers] and Assistant Settlement Officers;

(c) to cancel or revise, within such period as may be prescribed, any of the orders, acts or proceedings of [the Settlement Officers], other than those in respect of which an appeal lies to the Tribunal.

15. A careful reading of Section 6(C) would clearly reveal that the power of invoking the suo-motu revision will not apply to those cases where the orders or the proceedings of the Settlement Officer is subject to an appeal before the Tribunal under Section 11(3) of the Act.

16. In the present case, the order passed by the Assistant Settlement Officer, Thiruvallur was under Section 11(2) of the



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Act. This order was passed on 19.07.2000, after affording opportunity to all concerned. This order passed by the Assistant Settlement Officer is subject to an Appeal under section 11(3) of the Act. For proper appreciation, Section 11(3) of the Act 30 of 1963 is extracted hereunder:-

11. Determination of lands in respect of which any person is entitled to ryotwari patta:-

(3) Against a decision of the Assistant Settlement Officer under sub-section (2), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months of the said date, appeal to the Tribunal:

Provided that the Tribunal may, in its discretion, allow further time not exceeding two 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



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*Assistant Settlement Officer was vitiated by ??? or by
mistake of fact.*

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17. In order to understand the scope of the provision of Section 6(c) of the Act, it will be more gainful to take note of an *in pari materia* provision which was available under the Tamil Nadu Estate (Abolition and conversion into ryotwari) Act 1948. The provisions under Section 6 of Act 30 of 1963 is *impari materia* to Section 7 of that Act. Similarly, Section 11 of the Act 30 of 1963 is *in pari materia* to Section 15 of that Act. While considering those provisions, a Division Bench of this Court had an occasion to deal with the effect of the same. The findings rendered by the Division Bench in that judgement will have a direct bearing on the issue that is involved in the present writ petition. In view of the same, the relevant portions in the judgement in ***[Rajathi and another Vs. The Principal Secretary to Commissioner of Land Administration and another]*** reported in **2013 2 LW 485** are extracted hereunder :-



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*12. But, however, in the case on hand, it is not the case of the petitioners that suo motu revision cannot be taken by the first respondent exercising the power under clause (c) of **Section 7** of the Act without an application before him. The point that has been canvassed by the learned counsel appearing for the petitioners is that such power could be exercised in a case other than an appeal remedy is available. In order to appreciate the said contention, it would be useful to extract clause (c) of **Section 7** of the Act and the same is extracted hereunder:-*

7. Powers of control of the Board of Revenue:-

(a)

(b)

(c) to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies to be Tribunal or of any managers; and

(d) The said provision clearly contemplates that the Board of Revenue shall have the power to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies to the Tribunal or of any managers. That means, if the remedy of appeal is provided under the Act to challenge the order of the Assistant Settlement Officer, the suo motu revision



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cannot be taken up exercising power under clause (c) of [Section 7](#) of the Act.

13. In the given case on hand, it is not the case of the respondents that there is no appeal remedy against the order of the Assistant Settlement Officer, Dharapuram. [Section 15](#) of the Act clearly spells out that against the decision of the Settlement Officer, an appeal will lie before the Government. It would be, therefore useful to extract the said provision and the same is extracted hereunder:-

" 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 Conversation into Ryotwari) Amendment Act, 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 from 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."

14. A reading of clause (c) of [Section 7](#) of the Act coupled with [Section 15](#) of the Act will make it amply clearly that suo motu revision could be entertained by the first respondent, if there is no appeal remedy available to challenge the order of the Assistant Settlement Officer. In the case on hand, since the appeal remedy is available as provided under [Section 15](#) of the Act, in our considered view, as rightly contended by the learned counsel appearing for the petitioners, the suo motu revision will not lie before the first respondent.

15. We may add that the power given to an authority under an Act or Rule has to be exercised strictly only in accordance with the mode provided therein. It cannot be denied that the power clothing with an authority through the legislation has to be exercised within the four corners of its conferment. It cannot be travelled beyond that. The



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*language employed in the provisions of an Act can be interpreted only if there is any ambiguity and the Courts have no power to enter into the field of presumption or assumption. Absolutely there is no possibility to travel beyond what has been set out in the provisions to a statue. Therefore, in our considered view, when clause (c) of **Section 7** of the Act clearly spells out that suo motu revision could be exercised for cancelling or revising the order passed by the Settlement Officer other than those in respect of which an appeal lies before the Tribunal, leaving the remedy available under **Section 15** of the Act, which envisages an appeal, the first respondent has no legal right to entertain suo motu revision, that too, after nearly 11 years from the date of the order of the Assistant Settlement Officer, Dharapuram.*

16. The Courts are normally bound to give effect to the plain meaning of the words used in the statute, unless and otherwise such an interpretation leads to some absurd or illogical consequence or is in variance with the intention of the legislature. In this connection, the judgement reported in (2002) 1 SCC 633, Commissioner of Income Tax, Mumbai Vs. Anjum H. Ghaswala and others, more so para 29 of the said judgement is usefully extracted here under:-

"29. Nextly, the Commission has elaborately discussed the object of introduction of Chapter XIX-A in the Act, the



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*history behind the introduction and schematic rationalization of the provisions of Chapter XIX-A brought about through the **Finance Act**, 1987 to hold that in exercising its power under Chapter XIX-A it has almost an unbridled power to arrive at a settlement. This exercise of purposive interpretation by looking into the object and scheme of the Act and legislative intendment would arise, in our opinion, if the language of the statute is either ambiguous or conflicting or gives a meaning leading to absurdity. We do not find any such problem in the provisions of the Act to which we have already referred to...."*

17. That apart, it has to be seen that it is not the case of the respondents that the first petitioner has played fraud on the Assistant Settlement Officer, Dharapuram and got patta in her favour.

*18. For all the reasons stated above, we are of the considered view that the impugned show cause notice issued by the first respondent exercising power under clause (c) of **Section 7** of the Act is liable to be set aside.*

18. The Division Bench of this Court in no uncertain terms held that in a case where an appeal remedy is available as provided under Section 15 of the Tamil Nadu Estate (Abolition and conversion into ryotwari) Act 1948, the suo-motu power of



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revision under Section 7(C) of that Act cannot be invoked. Infact, that was a case where the commissioner of land administration had put forth the plea of fraud played by the petitioner before the Assistant Settlement Officer. In the teeth of such a serious allegation, the Division Bench proceeded to consider the scope of invoking the suo-motu revision and held that, the power or authority given under an Act or a Rule has to be exercised strictly only in accordance with the mode provided therein.

19. The above findings of the Division Bench will squarely apply to the facts of the present case. In this case, the order passed by the Assistant Settlement officer dated 19.07.2000 was an appellable order under Section 11 (3) of Act 30 of 1963. In view of the same, the 2nd respondent did not have the power or jurisdiction to invoke the suo-motu revision power under Section 6(c) of the Act. Hence, the impunged order dated 20.12.2002 is illegal and is liable to be interfered by this Court. Accordingly, the same is hereby quashed.



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WEB COPY 20. The learned Special Government Pleader submitted that in the event of this Court interfering with the order passed by the 2nd respondent on the ground of lack of jurisdiction, liberty may be granted to the respondents to file an appeal under Section 11 of the Act, since the present case involves allegation of fraud.

21. In the considered view of this Court, the remedy of appeal is always available under Section 11(3) of the Act and in fact, the Tribunal has also been given the discretion to entertain an appeal at any time if it appears to the tribunal that the decision of the Assistant Settlement Officer is vitiated by fraud or by mistake of fact. That apart, the pendency of this writ petition will be given due credit while considering the issue of limitation.



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22. In the result, this writ petition is allowed. No costs.

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To

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N.ANAND VENKATESH,J.,

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