IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26301 of 2009

And

M.P.No.1 of 2009 and W.M.P.No.6646 of 2017

1.M.Mumoorthy (Deceased)
2.G.Bhuvaneswari
3.G.Gayathiri Devi
4.G.Raj Thilak
5.G.Sivaraj

(P2 to P5 - are substituted as LRs
of deceased P1 (M.Mumoorthy) as
per Court order dated 08/08/19 in
WMP.20338/19 in WP.26301/09 by MKKSJ) ...Petitioners

Vs.

1.Special Commissioner and Commissioner
For Land Administration,
Chepauk, Chennai - 600 005.

2.Revenue Divisional Officer,
Saidapet Division,
No.147, Greams Road,
Chennai - 600 006.

3.The District Collector,
G.S.T.Road,
Chengalpattu - 603 001.
Chengalpattu District.

4.The Revenue Divisional Officer,
G.S.T.Road,
Tambaram,
Chennai - 600 045.

5.The Tahsildar,
G.S.T.Road,
Tambaram,
Chennai - 600 045.

(R3 to R5 – impleaded as per the order of this Court dated 08.03.2022 made in W.M.P.No.8760 of 2021 in W.P.No.26301 of 2009) ...Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in Proc.No.Rc.K1/5729/05-2 dated 26.04.2005 on the file of the first respondent herein and quash the same in respect of the petitioner's land comprised in Survey No.11/1 of an extent of 1.21.5 hectares, Tambaram Taluk, Kancheepuram District.

For Petitioner : Mr.D.Selvaraju
for M/s.P.Kannankumar

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records in Proc.No.Rc.K1/5729/05-2 dated 26.04.2005 on the file of the first respondent and to quash the same in respect of the petitioner's land comprised in Survey No.11/1 of an extent of 1.21.5 hectares, Tambaram Taluk, Kancheepuram District.

2.The case of the petitioner is that the subject property was purchased by his father vide registered sale deed dated 05.07.1967 bearing document no.1792 of 1967 registered on the file of the Sub Registrar, Tambaram. The subject property was possessed by the ancestors of the vendor of the petitioner's father from the year 1932 and on 06.10.1932, they mortgaged the property and thereafter it was redeemed and the vendor of the petitioner's father was in possession and enjoyment of the same and he sold the subject property in favour of the petitioner's father. The petitioner's father during his lifetime applied for issuance of ryotwari patta on 17.01.1974. The petitioner's father died on 07.09.1985. Thereafter the petitioner succeeded the subject property and was in possession of the same and he made application to the second respondent for issuance of ryotwari patta on 25.06.1994.

3.The further case of the petitioner is that the second respondent after perusing all the relevant records, certificates and orders issued by appropriate Authorities, directed the

Tahsildar, Saidapet Taluk to issue patta in favour of the petitioner and further directed the Tahsildar to make necessary entries in the Village and Taluk accounts. Accordingly, the Tahsildar, Saidapet Taluk, issued patta no.188 in favour of the petitioner and also mutated the revenue records. Whileso, the first respondent initiated suo motu revision proceedings and passed the impugned order. Hence, this writ petition.

4.Since the petitioner who filed this writ petition passed away during the pendancy of this writ petition, petitioners 2 to 5 who are his legal heirs are substituted in this writ petition.

5.The learned counsel appearing for the petitioners submitted that the second respondent after perusing all the relevant records, certificates and orders issued by appropriate Authorities, directed the Tahsildar, Saidapet Taluk, to issue patta in favour of the petitioner under Outside the Scope of Act, 26 of 1963. Initially the first petitioner's father made application for issuance of ryotwari patta on 17.01.1974 and after his death, the first petitioner made application to the second respondent for issuance of ryotwari patta on 25.06.1994.

6.The learned counsel appearing for the petitioners further submitted that the first respondent has no jurisdiction or authority to initiate suo motu revision proceedings and to pass the impugned order and the same is against the provisions of G.O.Ms.No.1147, CT & RE Department, dated 06.10.1983. The learned counsel further submitted that the issue involved in this writ petition is squarely covered by the decision of the Division Bench of this Court reported in 2013 3 MLJ 257 (Rajathi and another Vs. The Principal Secretary and Commissioner of Land Administration and another). Accordingly, he prayed for allowing the writ petition.

7.The learned Additional Government Pleader submitted that the village in which the subject property is situated was an inam village and was taken under the provisions of Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963. The time limited for submitting petition for grant of patta Outside the Scope of Act for the estates taken over under the Act, 26 of 1963 ended on 31.03.1977. He further submitted that to obtain patta Outside the Scope of Act, the applicant has to prove his long possession and enjoyment of the land on and from the notified date i.e., 15.04.1965.

8.The learned Additional Government Pleader further submitted that patta was granted to the first petitioner Outside the Scope of the Abolition Act as per G.O.Ms.No.1300, Revenue Department, dated 30.04.1971, however, this Government Order applies only to the villages taken over by the Government under the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act (TN Act 26 of 1948). In the present case, the village in which the subject property is situated was taken over under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act (TN Act 26 of 1963). He further submitted that the first respondent is empowered by the Government as per G.O.Ms.No.1147, Commercial Taxes and Religious Endowments Department, dated 06.10.1983 to pass the impugned order. Accordingly, he prayed for dismissal of the writ petition.

9.Heard the arguments advanced on either side and perused the materials available on record.

10.The facts in the present case is not in dispute. Admittedly, the subject property was purchased by the first petitioner's father vide registered sale deed dated 05.07.1967 bearing document no.1792 of 1967 registered on the file of the Sub Registrar, Tambaram and during his lifetime, he applied for issuance of ryotwari patta on 17.01.1974. The first petitioner's father died on 07.09.1985. Thereafter the first petitioner succeeded the subject property and was in possession of the same and he made application to the second respondent for issuance of ryotwari patta on 25.06.1994.

11.Thereafter, the second respondent after perusing all the relevant records, certificates and orders issued by appropriate Authorities, directed the Tahsildar, Saidapet Taluk, to issue patta in favour of the petitioner and further directed the Tahsildar to make necessary entries in the Village and Taluk accounts. Accordingly, the Tahsildar, Saidapet Taluk, issued patta no.188 in favour of the first petitioner and also mutated the revenue records. Whileso, the first respondent initiated suo motu revision proceedings and passed the impugned order in exercise of the powers conferred in G.O.Ms.No.1147, CT & RE Department, dated 06.10.1983.

12.For better appreciation, the relevant portions of G.O.Ms. No.1147, Commercial Taxes and Religious Endowments Department, dated 06.10.1983, is extracted hereunder:

> 'Consequent on the abolition of Board of Revenue, the Government delegated the powers in

respect of cases relating to grant of patta outside the scope of various Abolition Acts to the Revenue Divisional Officers, District Revenue Officers and Collectors with a right to appeal to the Government in the Government order eighth read above. The Commissioner of Land Administration in the letter ninth read above has suggested certain methods to deal with the cases and to minimize the work load faced by the Government. In the circumstances stated by the Commissioner of Land Administration in his letter ninth read above, the Government after careful consideration of the matter, decided to delegate certain powers to the Commissioner of Land Administration in respect of cases relating to grant of patta outside the scope of the Abolition Act.

2.The Government accordingly direct the followings:-

1)In Para 1(1) of the Government Order eighth read above, the Government directed that the Collectors/ District Revenue Officers be empowered to grant patta to any land referred to in the Government Orders first and second read above irrespective of land involved. They also directed therein that the revision against such orders either suo motu or on application ill lie to the Government. In partial modification of the orders issued in para 4 (1) of the Government order eighth read above, the Government direct that the appeal against such orders of the Collectors/ District Revenue Officers either suo motu or on application will lie to the Commissioner of Land Administration will lie to the Government.

2)In para 1 (2) of Government Order eighth read above, the Government directed all Collectors to delegate their powers under paragraph 2 (ii) of the G.O. third cited if not done so already any pending cases with the Collectors/District Revenue Officers under this G.O. may be transferred to the Revenue Divisional Officer for disposal and appeal against the Revenue Divisional Officers will lie to the Collectors/ District Revenue Officers and further revision against the orders of the Collectors/District Revenue Officers will lie to the Government. In partial modification of the orders issued in paragraph 1(2) of the G.O. eighth read above, the Government direct that an appeal against the Revenue Divisional

Officers orders will lie to the Collectors/District Revenue Officers and revision against the orders of the Collectors/District Revenue Officers will lie to the Commissioner of Land Administration. A second revision against the orders of the Commissioner of Land Administration will lie to the Government.

4)In Para 1(4) of the Government Order eighth read above, the Government in partial modification of the orders issued in the G.O. Fifth read above, directed that the orders passed by the Revenue Divisional Officers orders will be subject to appeal by the Collectors/District Revenue Officers and further revision either suo motu or on application will lie to the Government. The Government also directed that an appeal shall lie to the Government against original order passed by the Collectors/District Revenue Officers. In partial modification of the orders issued in para 1(4) of the Government Order eighth read above, the Government direct that the orders passed by the Revenue Divisional Officers orders will be subject to appeal to the Collectors/District Revenue Officers and revision either suo motu or on application against the orders of the Collectors/District Revenue Officers will lie to the Commissioner of Land Administration. A second revision against the orders of the Commissioner of Land Administration will lie to the Government.

5)In para 1(6) of the Government order eighth read above, the Government in partial modification of the orders issued in the Government order sixth read above, directed that the following time limits be fixed for filing appeals and revision petitions as shown below.

i)	Appeal Petition to the District Revenue Officer or Collector against the order passed by the Revenue Divisional Officer	Within 30 days from the date of receipt by the petitioner of the order appealed against
ii)	Appeal or Revision petition to the Government against the order passed by the District Revenue Officer or Collector	Within 60 days from the date of receipt by the petitioner of the order appealed against

In Partial modification of the orders issued in para 1(5) of the Government Order eighth read above, the Government direct that the following time limits be fixed for filing appeal or revision petitions as shown below.

i)	Appeal Petitions to the District Revenue Officer or Collector against the order passed by the Revenue Divisional Officers	Within 30 days from the date of receipt by the petitioner of the order appealed against
ii)	Further Appeal petition or Revision petition to the Commissioner of Land Administration against the orders passed by the District Revenue Officers or Collectors	Within 30 days from the date of receipt by the petitioner of the order appealed against
iii)	Revision or second revision to the Government against the order passed by the Commissioner of Land Administration	Within 60 days from the date of receipt by the petitioner from the Commissioner of Land Administration

13.Perusal of the above Government Order makes it clear that appeal against the order of the Revenue Divisional Officer will lie to the Collector/District Revenue Officer and revision against the orders of the Collector/District Revenue Officer will lie to the Commissioner of Land Administration and time limit has also been prescribed in the Government Order.

14.Admittedly, the second respondent after perusing all the relevant records, certificates and orders issued by appropriate Authorities, directed the Tahsildar, Saidapet Taluk, to issue patta in favour of the petitioner. No aggrieved party preferred appeal as against the said order. However, the first respondent initiated suo motu revision and passed the impugned order.

15.The question that arises for consideration is when there is appeal provision available in the Government Order, whether the first respondent can initiate suo motu revision.

16.Similar issue has already been dealt with by the Division Bench of this Court in the decision reported in 2013 3 MLJ 257 (Rajathi and another Vs. The Principal Secretary and Commissioner of Land Administration and another), the relevant portion of which reads as follows:

> '11. The matter in question came up before the Full Bench of this Court since in the decision reported in Director of Survey and Settlement v. R. Ramadoss, 1992 (2) LW 265, a Division Bench of this Court has held that Director of Settlement has no suo motu power of Revision against the order of the Assistant Settlement Officer without an Application for such Revision and in the latter decision reported in M. Veeraswamy v. Special Commr. & Commr. of L.A., etc., 1996 Writ L.R. 554, another Division Bench of this Court has held that such power can be exercised under Clause (c) of Section 7 of the Act even without an Application for revising the order of the Lower Authority. In view of the conflicting decisions found thereon, a Full Bench was constituted and the Full Bench of this Court, in the decision reported in Special Commissioner & Director of Survey & Settlement v. M. Arumugam, 2007 (4) CTC 538 (FB), has affirmed the view taken by the Division Bench in the judgment reported in 1996 Writ L.R. 554, that is to say, that the Full Bench has held that the view taken by the Division Bench in the said decision that the power can be exercised even without an Application for revising the order of the Lower Authority, has been upheld.
>
> 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 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 Sections 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, 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 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 Commissioner of Income Tax, Mumbai v. Anjum H. Ghaswala, 2002 (1) SCC 633, more so para 29 of the said judgement is usefully extracted hereunder:

> "29. Nextly, the Commission has elaborately discussed the object of introduction of Chapter XIX-A in the Act, the history behind the introduction and schematic rationalisation of the provisons 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 no 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.'

17.Perusal of the decision cited supra makes it clear that suo motu revision can be initiated by the first respondent if there is no appeal remedy available. In the present case, since appeal remedy is available as per G.O.Ms.No.1147, Commercial Taxes and Religious Endowments Department, dated 06.10.1983, the first respondent has no power to pass the impugned order by initiating suo motu revision. Hence, the impugned order is liable to be set aside.

18.The writ petition is accordingly allowed. The impugned order dated 26.04.2005 passed by the first respondent is hereby set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

pri
To

1.The Special Commissioner and Commissioner
For Land Administration,
Chepauk, Chennai - 600 005.

2.The Revenue Divisional Officer,
Saidapet Division,
No.147, Greams Road,
Chennai - 600 006.

3.The District Collector,
G.S.T.Road,
Chengalpattu - 603 001.
Chengalpattu District.

4.The Revenue Divisional Officer,
G.S.T.Road,
Tambaram,
Chennai - 600 045.

5.The Tahsildar,
G.S.T.Road,
Tambaram,
Chennai - 600 045.

+1 CC to Mr.P. Kannan Kumar, Advocate sr 16310.
+1 CC to The Government Pleader sr 16244.

W.P.No.26301 of 2009
And
M.P.No.1 of 2009 and
W.M.P.No.6646 of 2017

GPL(CO)
SP(21/04/2022)