



W.P. Nos.20949-29241/14 – 2765/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
08.09.2022	21.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.20949 & 29241 OF 2014 & 2765 OF 2020

AND

W.M.P. NO.3217 OF 2020

W.P. No.20949 of 2014

V.Kamalakaran

.. Petitioner

- Vs -

1. The Tahsildar
Thirukazhukundram
Kancheepuram District.

2. The Asst. Settlement Officer (North)
O/o Principal Secretary & Commissioner
Of Land Survey & Settlement
Chepauk, Chennai 600 005.

.. Respondents

W.P. No.29241 of 2014

V.Kamalakaran

.. Petitioner

- Vs -



W.P. Nos.20949-29241/14 – 2765/2020

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1. The Prl. Secretary & Commissioner
Of Land Administration
Ezhilagam, Chepauk
Chennai 600 005.
Tahsildar
2. The Commissioner of Survey & Settlement
Survey House, Chepauk, Chennai – 600 005.
3. The Government of Tamil Nadu
By its Secretary – Revenue Department
Fort St. George, Chennai 600 009.

.. Respondents

W.P. No.2765 of 2020

V.Kamalakaran

.. Petitioner

- Vs -

1. The Addl. Chief Secretary/Commissioner
Commissioner of Land Administration
Chepauk, Chennai 600 005.
2. Director of Survey & Settlement
Ezhilagam, Chepauk, Chennai 600 005.
3. District Collector of Kancheepuram
Kancheepuram (Post) & District.
4. The Assistant Settlement Officer (North)
Chennai 600 003.
5. The Tahsildar
Thirukazhukundram Taluk & Post
Kancheepuram District.

.. Respondents



W.P. Nos.20949-29241/14 – 2765/2020

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W.P. No.20949 of 2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for all the records relating to the impugned order Na.Ka.2610/2012/Aa1 dated 29.10.2013 passed by the 1st respondent herein and quash the same insofar as it relates to the lands of the petitioner covered under patta Nos.921, 1412 and 1418 of Poonthandalam and Neikuppi Villages, Thirukazhukundram Taluk, Kancheepuram District and consequently direct the 1st respondent herein to restore all the Taluk and Village revenue records pertaining to the lands of the petitioner covered under patta Nos.921, 1412 and 1418 of Poonthandalam and Neikuppi Villages, Thirukazhukundram Taluk, Kancheepuram District as they were on 28.10.2013, i.e., immediately prior to the passing of the above said impugned order.

W.P. No.29241 of 2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari to call for the records relating to the impugned communication D.O. Lr.No.Rc.K1/36249/06 dated 14.02.2011



W.P. Nos.20949-29241/14 – 2765/2020

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issued by the Principal Secretary and Commissioner of Land Administration, Chennai, the first respondent herein, and quash the same.

W.P. No.2765 of 2020 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari to call for the records of the 1st respondent in his proceedings Ref.No.K/1/16090/2013 dated 26.12.2019 and quash the same except para 25 (i) of the said impugned order.

For Petitioners : Mr. V.Ramesh, SC, for
Ms. M.Sneha

For Respondents : Mr. Mr. R.P.Murugan Raja, GA

COMMON ORDER

Assailing the deletion of the name of the petitioner in the patta by the Tahsildar upon the directions of the Commissioner of Land Administration and the subsequent communication of the District Collector resulting in the impugned order passed by the Commissioner of Land Administration cancelling the ryotwari patta granted to the petitioner, the present petitions have been filed.



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2. It is the case of the petitioner that lands measuring 10.10.5 hectares and 17.77 hectares in Neikuppi Village and 5.36 hectares in Poonthandalam Village of Thirukazhukundram Taluk, Kancheepuram District, totally measuring 33.23 ½ hectares belonged to his foster father, Late M.Vedachala Mudaliar, who had acquired the said lands by way of court auction held by the Sub Court, Chengalpet, vide Sale Certificate No.LA 2994/39 dated 28.11.1939 and duly registered with SRO, Thirukazhukundram as MP No.482 of 1940 dated 17.5.1940. It is the further case of the petitioner that even since the said purchase, the pattas, having mutated, stood in the name of his father and that his father was in continuous possession and enjoyment of the same and was paying the kist and other statutory charges with regard to the said lands.

3. It is the further case of the petitioner that he was adopted as the son of Rajeswari, wife of Vedachala Mudaliar on 7.9.1959 vide Document No.12/1959, after the demise of Vedachala Mudaliar, who died intestate on 10.4.1957. The said Rajeswari died intestate on 19.3.1981, whereupon the properties devolved on the petitioner.



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4. It is the further case of the petitioner that by enactment of Tamil Nadu Estate (Abolition & Conversion into Ryotwari) Act, 1948, (for short 'Act, 1948') the lands of Vedachala Mudaliar were taken over by the Government and inspite of the fact that the SLR indicated the name of Vedachala Mudaliar as the owner of the lands, the lands were wrongly classified as 'Anadheenam', without any reference to the said Vedachala Mudaliar. It is the further case of the petitioner that in the revenue records the name of Vedachala Mudaliar was rounded and the lands were shown as 'Anadheenam' and upon coming to know of the same, the petitioner has been incessantly approaching the revenue authorities to make the necessary modification entries in the revenue records and issue patta in his name. Inspite of representations sent by the petitioner and also without considering the overwhelming records that unerringly pointed the petitioner as liable for getting patta, without affording any opportunity to the petitioner, all the applications of the petitioner were rejected.

5. Aggrieved by the said order of the Assistant Settlement Officer, W.P. Nos. 4544, 4545 and 9391 of 2011 were preferred, which were allowed and the matter was remanded to the Assistant Settlement Officer for fresh



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consideration. Pursuant to the said order, after conducting an exhaustive enquiry, the Assistant Settlement Officer, vide orders dated 16.5.2011, 21.10.2011 and 25.1.2012 granted patta in favour of the petitioner holding that the classification of the lands as 'Anadheenam' was wrong as the lands are already existing patta lands and the said order was passed u/s 12 (b) (ii) of Act, 1948. It is the further case of the petitioner that no appeal was filed against the said order and the said order reached finality.

6. It is the further case of the petitioner that pursuant to the grant of patta, though it was the duty of the Tahsildar to make necessary changes in the revenue records and issue new patta, however, due to the inaction on the part of the Tahsildar, the petitioner filed W.P. Nos.23971, 2397 of 2012 and 1043 of 2013 and this Court directed the Tahsildar to implement the aforesaid orders passed by the Assistant Settlement Officer. Further to the same, the Tahsildar, Thirukazhukundram issued three pattas, bearing Nos.921, 1412 and 1418. It is the further case of the petitioner that during the interregnum, encroachers, encroached upon the lands of the petitioner, who opposed the grant of patta, which resulted in an order of stay being granted by the Revenue Divisional



W.P. Nos.20949-29241/14 – 2765/2020

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Officer, Chengalpet, which was later recalled. It is the further case of the petitioner that the pattas granted were unilaterally deleted without notice to the petitioner and the records were restored to the position as they were before and assailing the same, W.P. No.20949/14 has been filed.

7. It is the further case of the petitioner the pattas were unilaterally deleted the name of the petitioner from the patta and restored it back to its earlier position on the ground of compliance of a telephonic message from the office of the District Collector against which W.P. No.20949/14 was filed in which order of stay was granted, which was made absolute. It is the further case of the petitioner that the power of the Settlement Officer/Assistant Settlement Officer is quasi-judicial in nature and, therefore, any grievance against the said order could be ventilated only by way of appeal before the Tribunal and revision could be entertained only where appeal before the Tribunal is not provided. It is the further case of the petitioner that the impugned communication of the Commissioner of Land Administration directing the District Collectors not to implement the orders passed by the Assistant Settlement Officers/Settlement Officers/Director of Survey and Settlement without his instructions is nothing



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but transgressing on the powers of the said authorities. It is the further case of the petitioner that the said order of the Commissioner of Land Administration is wholly without authority as the Commissioner of Land Administration is assuming the role of appellate authority, when power is conferred only on the Tribunals specially constituted for this purpose. Aggrieved by the said communication of the Commissioner of Land Administration, W.P. No.29241/14 has been filed.

8. It is the further case of the petitioner that subsequent to the grant of patta in the name of the petitioner, CMA No.10 of 2013 was filed by the Tahsildar, Thirukazhukundram against the said order of the Assistant Settlement Officer before the Inam Appellate Tribunal and pending the said appeal, certain encroachers on the land of the petitioner filed revision petition against the said order of the Assistant Settlement Officer before the Commissioner of Land Administration without impleading the Tahsildar. It is the further case of the petitioner that W.P. No.23681/14 was filed in which this Court dismissed the petition and directed conduct of enquiry and passing of orders and inspite of conduct of enquiry on 27.12.2018, since no orders were passed by the



W.P. Nos.20949-29241/14 – 2765/2020

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Commissioner of Land Administration, the petitioner filed W.P. No.28384/19 which was dismissed as infructuous as the impugned proceedings were passed on 27.12.2019. It is the further case of the petitioner that in the revision, the revision petitioners, numbering 118 withdrew the revision with liberty to file appeal before the Tribunal. In the meantime, the appeal in CMA No.10 of 2013 filed by the Tahsildar was dismissed for default.

9. In the aforesaid backdrop, the impugned proceedings was passed by the Commissioner of Land Administration, wherein the said authority has recorded that the petitions filed by the third parties are permitted to be withdrawn so as to exhaust their remedy before the Inam Abolition Tribunal, however, the orders passed by the Assistant Settlement Officer was interfered with on the ground that it was passed beyond the powers and period of limitation. It was further observed that the Director of Survey and Settlement was directed to take up suo motu enquiry u/s 5 (2) of Act, 1948 and the District Collector was directed to assist the said authority in the conduct of the enquiry by providing all the factual details and that status quo was directed to be



W.P. Nos.20949-29241/14 – 2765/2020

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maintained and no third party mutation was to be made until finalization of suo motu enquiry. Aggrieved by the said order, W.P. No.2765/20 has been filed.

10. Counter affidavit has been filed on behalf of the respondents in which it is averred that the Commissioner of Land Administration is vested with power of *suo motu* revision u/s 7 of Act, 1948 and only in exercise of the said power, the present order has come to be passed. It is the further averment of the respondents that the Assistant Settlement Officer has gone beyond his powers and inspite of the bar of limitation, yet has issued patta in favour of the petitioner. Only in the said backdrop, the Commissioner of Land Administration has invoked the *suo motu* power of review and further it is averred that u/s 7 (b) of Act, 1948, the Commissioner of Land Administration is vested with powers to issue instructions for the guidance of the authorities below him.

11. It is the further averment of the respondents that the petitioner has approached the Assistant Settlement Officer beyond the period of limitation provided under Act, 1948 and the said authority, without any power having been vested under the Act, has gone beyond his jurisdiction and granted patta in



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favour of the petitioner. Such being the case, the Commissioner of Land Administration has exercise his power u/s 7 to revisit the erroneous order, which cannot be said to be perverse.

12. It is the further averment of the respondents that the reclassification of land has never been questioned by Vedachala Mudaliar during his life time and no material has been placed by the petitioner to show that such an appeal has been filed. It is the further averment of the respondents that settlement operations in the State were completed as early as in the year 1975 and insofar as Neikuppi Village is concerned, the settlement operations were completed in the year 1962 itself and necessary modifications were made in the village accounts which were handed over to the concerned authorities. Any person aggrieved by such reclassification ought to file appeal under the relevant provisions of the Act and seeking patta by reclassifying the said land is wholly impermissible. Such being the case, the petitioner cannot, after a lapse of more than four decades from the date of reclassification come before the Assistant Settlement Officer and claim patta questioning the said reclassification, when his predecessor-in-title has not questioned the said reclassification. Therefore, it is



W.P. Nos.20949-29241/14 – 2765/2020

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prayed that there are no merits in the writ petitions and, accordingly, prays for dismissal of the writ petitions.

13. Learned senior counsel appearing for the petitioner submitted that patta was granted by the Assistant Settlement Officer u/s 12 (b) (ii) of Act, 1948 upon proper appreciation of all the material documents, which was followed by the Tahsildar in granting regular patta. Such being the case, the appeal filed by the Tahsildar, without the approval of the Government, u/s 15 (2)(a) before the Inam Tribunal, is wholly beyond the powers of the Tahsildar and exceeding his jurisdiction.

14. It is the further submission of the learned senior counsel that a review was filed before the Commissioner of Land Administration u/s 7 (A) and (C) of Act, 1948, by persons, who had encroached the lands of the petitioner and when appeal is provided before the Tribunal against the orders of the Assistant Settlement Officer, more so, when an appeal has been filed before the Tribunal by the Tahsildar. It is the further submission of the learned senior counsel that when the revision itself has been withdrawn by the revision petitioners, the



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order passed by the Commissioner of Land Administration in setting aside the orders of the Assistant Settlement Officer is beyond the scope of the Commissioner of Land Administration and is nothing but interfering with the quasi-judicial powers endowed on the Assistant settlement Officers. In this regard, learned senior counsel placed reliance on the decision of this Court in ***Rajathi & Ors. – Vs – The Principal Secretary & Commissioner of Land Administration & Ors. (2013 (3) MLJ 257).***

15. It is the further submission of the learned senior counsel that G.O. Ms. No.714 applies only in case of appeal against the order of Assistant Settlement Officer and it is not applicable to original application. It is the submission of the learned senior counsel that the petitioner having applied for the first time, his application is before the original authority, viz., the Assistant Settlement Officer for grant of patta, which will not attract G.O. Ms. No.714 and, therefore, placing reliance on the said Government Order by the Commissioner of Land Administration is wholly misconceived.



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16. On the above contentions, this Court heard the learned Government Advocate appearing for the respondents and perused the materials available on record.

17. The lands for which patta is claimed by the petitioner is alleged to be the lands of one Vedachala Mudaliar, who is alleged to have purchased the said lands through a court auction. The alleged auction sale is said to have taken place on 23.12.1939. Vide Act, 1948, lands stood vested in the Government and upon proper application by the landholder proving his ownership and cultivation of the said lands, upon proper verification, patta was granted by the Assistant Settlement Officer.

18. It is the undisputed case of the parties during the settlement process, the subject lands, which is alleged to have belonged to Late Vedchala Mudaliar, were classified as 'Anadheenam lands'. It is the case of the petitioner that though the SLR reflected the name of the petitioner's father, viz., Vedachala Mudaliar, yet, it was simply rounded off and the subject lands were classified as 'Anadheenam lands' and entries made in the revenue records. It is the case of



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the respondents that the entire settlement process in respect of the Neikuppi Village, in which the lands are situate, was completed in the year 1962. Though the petitioner claims that coming to know of the error in the revenue records, the petitioner has been diligently pursuing the matter with the revenue authorities, however, curiously, no specific date has been mentioned as to when the said process was started by the petitioner.

19. Further, as it transpires from the affidavit filed by the petitioner in support of the writ petition, the petitioner was adopted by Ms.Rajeswari, the wife of Vedachala Mudaliar on 7.9.1959 through Document No.12/1959 and at that point of time, the petitioner was aged eight years. It is also evident from the affidavit that Vedachala Mudaliar died intestate on 10.4.1957, much before the adoption of the petitioner by Rajeswari. The settlement process in the village had begun prior to the adoption of the petitioner and had been completed by 1962 and that till 1957, Vedachala Mudaliar was alive. Rajeswari, the mother of the petitioner died intestate on 19.3.1981. As is evident from the order of the Commissioner of Land Administration, application for issuance of patta has been submitted by the petitioner only in the year 2011, more specifically on 4.1.2011.



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20. It is borne out by record that neither Vedachala Mudaliar, nor Rajeswari, his wife, have claimed patta from the Assistant Settlement Officer upon issuance of notification. Further, the two individuals have not taken any steps to set at naught the reclassification of lands into 'Anadheenam'. Therefore, the above, it is clear that the predecessors-in-title to the petitioner have not claimed any pre-existing right over the said subject lands pursuant to the introduction of ryotwari settlement upon the lands vesting with the Government on Act, 1948 coming into force.

21. The first of the legal battle of the petitioner seems to have stemmed out of the writ petition in W.P. Nos. 4544, 4545 and 9391/2011 in and by which the application filed by the petitioner for issuance of patta stood negated by the Assistant Settlement Officer on 1.2.2011 on the ground of being filed belatedly. In the said petitions, this Court, on the basis of the decision in *R.Muniyandi @ Chandran – Vs – The Addl. Chief Secretary to Government and Director of Survey & Settlement & Ors. (W.P. No.13900/2009 – Dated 17.11.2009)* held that no specific time limit has been prescribed under Act, 1948



W.P. Nos.20949-29241/14 – 2765/2020

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for presenting an application for grant of patta before the Assistant Settlement Officer and, therefore, directed the Assistant Settlement Officer to grant patta.

22. Pursuant to the said order, the Assistant Settlement Officer had granted patta and, thereafter, the Tahsildar had also granted patta which had only come to be subsequently cancelled on the basis of the directions of the Commissioner of Land Administration, which is also put in issue before this Court.

23. Be that as it may. As aforesaid, the grant of patta has stemmed from the decision of this Court in W.P. Nos.4544, 4545 and 9391/2011 which held that there is no specific time limit prescribed under the Act for presenting an application for grant of patta before the Assistant Settlement Officer. A careful perusal of Act, 1948 reveals that the Act does not contemplate any specific time limit and G.O. Ms. No.714 also does not bar filing of application of grant of patta at any time as the said Government Order relates only to prescription of a time limit in the event of filing appeal. Therefore, the decision relied on by the learned senior counsel in *Rajathi's case (supra)* is not applicable to the present



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case on hand, as the limitation discussed in the said case pertains to an appeal and not in respect of an application which is filed for the first time.

24. As aforesaid, order for the first time, has been passed in favour of the petitioner only on the premise that there is no specific time period specified under the Act to file application for grant of patta. However, Section 67 provides power to make rules and by virtue of the same Rules under the TN Estates (Abolition & Conversion into Ryotwari) Act, 1948, has been framed and Rule 2 therein, provides for period within which an application be made to the appropriate authority by the landholder claiming ryotwari patta. For better appreciation, the said rule is quoted hereunder :-

2 (a) Every landholder claiming a ryotwari patta under sections 12, 13, 14, as the case may be, shall apply in writing to the Settlement Officer within six months from the notified date or within two months from the date of publication of this notification, whichever is later.

(Subject to the provisions of the Act and these rules, every application made to the Settlement Officer under this rule, after the period of limitation prescribed therefor, shall be dismissed although limitation has not been set up as a defense.



W.P. Nos.20949-29241/14 – 2765/2020

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No such application made shall be admitted after the period of limitation prescribed therefor in this rule on the ground that the applicant had sufficient cause for not preferring the application within such period.”

25. From the above, it is evident that Rule 2 (a) provides that application for any patta u/s 12, 13 and 14 of Act, 1948, should be submitted within for a period of six months from the notified date or within two months from the date of publication of this notification. The village was notified under Act, 1948 on 09.12.1950 and notification was published on 17.03.1952. Therefore, any person aggrieved, ought to have filed application for patta u/s 12, 13 and 14 of the Act within six months from 09.12.1950 or within two months from 17.03.1952. However, it is the admitted case of the petitioner that he came into picture only on 7.9.1959 by virtue of his adoption by Rajeswari, viz., the wife of Vedachala Mudaliar. Further, as stated above, Vedachala Mudaliar was very much alive on the said date, viz., 09.12.1950 as well as on 17.03.1952 and the said Vedachala Mudaliar, had not claimed any patta in the settlement proceedings. The time having lapsed even during the life time of Vedachala Mudaliar, the alleged landholder of the subject lands, application of Rule 2



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would bar the application of the petitioner and, therefore, the order passed in W.P. Nos.4544, 4545 and 9391/2011 has not been passed on the basis of the relevant rules, which have not been brought to the notice of the learned single Judge. Further, the decisions on which reliance has been placed in the aforesaid order also has been passed without adverting to Rule 2 and, therefore, the claim of the petitioner that patta has been granted only on the basis of the order cannot be allowed to stand, as the said order itself has been passed without reference to the Rule.

26. In such a backdrop, the Commissioner of Land Administration, has rightly observed, in the impugned order, that the Assistant Settlement Officer has passed the order on a claim, which is barred by limitation, which cannot be said to be wrong, but only advertence has not been made to Rule 2, which prescribes the time limit, within which the application for patta should have been filed. Reference drawn to G.O. Ms. No.714 is not in any way relevant to the case on hand, as the Rule 2 aforesaid clearly provides for the particular time frame within which application ought to be made and any deviation from the same rob the Assistant Settlement Officers of the power to issue any patta.



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29. Section 7 prescribes the power of control of the Board of Revenue and for appreciation of the aforesaid contentions, the said provision is quoted hereunder:-

“7. Power of control of the Board of Revenue.- The Board of Revenue shall have power –

(a) to give effect to the provisions of this Act Revenue and in particular to superintend the taking over of estates and to make due arrangements for the interim administration thereof;

(b) to issue instruction for the guidance of the Director, District Collectors, Settlement Officers and managers of estates;

(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 the Tribunal or of any manager ; and

(d) to cancel or revise any of the orders, acts or proceedings of the Director. or of ally District Collector, including those passed, done or taken in the exercise of revisional powers.”

30. The aforesaid provision clothes the 1st respondent with 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 manager. In the case on hand, as aforesaid, revision has been preferred by certain third parties against the patta granted to the petitioner, but appeal



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against the grant of patta by the Assistant Settlement Officer was put in issue before the Tribunal by the Tahsildar, which was subsequently, dismissed for default on 02.07.2019. However, the impugned order was passed by the Commissioner of Land Administration only on 26.12.2019, at which point of time, there was no appeal pending before Tribunal. Therefore, there arose no necessity for the Commissioner of Land Administration to either defer the hearing of the revision or dismiss the revision to relegate the revision petitioners to the Tribunal. However, it is to be pointed out that the revision petitioners, on their own volition, had withdrawn the revision with liberty to approach the Tribunal for filing the necessary appeal, which prayer was acceded to by the Commissioner of Land Administration. But, the issue was taken up by the Commissioner of Land Administration by exercising his *suo motu* powers of review provided u/s 7 (c) of Act, 1948.

31. As noted above, Section 7 (c) of Act, 1948 provides the Commissioner of Land Administration with 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. However, a perusal of Section 52



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shows that certain restrictions on the jurisdiction of the Tribunal and Special Tribunal are provided and sub-section (b) of Section 52 thereunder provides that in cases falling u/s 47 of Act, 1948, pertaining to the division of the lands in respect of which a ryotwari patta may be granted u/s 12 or 14. Therefore, the restriction of the Tribunal or the Special Tribunal pertains only with respect to division of lands in respect of which ryotwari patta is granted and not otherwise. The Tribunal or the Special Tribunal has not been clothed with power to go into the question of the correctness of the determination or the adequacy of the compensation awarded. Such being the case, the Commissioner of Land Administration is not barred into looking at the correctness of the grant of patta in favour of the petitioner by the Assistant Settlement Officer and any contention on that score by the petitioner would be wholly impermissible.

32. Further, as aforesaid, on the date when the revision was taken up, no appeal was pending, the Commissioner of Land Administration has rightly taken up the revision and passed orders, which cannot be said to be unsustainable. Further, Section 7 (c) clothes the power on the Commissioner of Land Administration to revise and cancel any order passed by the Settlement



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Officer/Assistant Settlement Officer and that is not restricted to a revision being filed and even in absence of any revision, *suo motu* power is always there on the Commissioner of Land Administration to take up the case and correct any irregularity that has crept in the grant of patta and the *suo motu* powers is not curtailed in any way and such being the case, the exercise of jurisdiction by the Commissioner of Land Administration in exercising *suo motu* powers even in the event of the withdrawal of the revision by the third parties, would not in any way oust the jurisdiction or curtail the power of the Commissioner of Land Administration, which has been vested upon him by Section 7 (c).

33. Further, it is to be pointed out that the Settlement Proceedings attained finality as early as in the year 1962 and neither Vedachala Mudaliar nor his wife Rajeswari have claimed any patta over the said lands during the settlement proceedings, which resulted in the reclassification of lands in favour of the Government. Once reclassification is made and the lands stood vested with the Government, the proper course for the petitioner is only to go before the Tribunal to establish his right to patta u/s 64 (c) of the Act and the



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application before the Assistant Settlement Officer for grant of patta is wholly erroneous and cannot be sustained.

34. Further, one of the main ingredients for grant of patta in favour of the petitioner is the pre-existing right of his predecessors-in-title. In the case on hand, the petitioner claims his pre-existing right through his predecessors-in-title, viz., Vedachala Mudaliar and Rajeswari. Vedachala Mudaliar died in the year 1957 his wife Rajeswari died in the year 1981. Neither Vedachala Mudaliar nor Rajeswari have claimed pre-existing right over the said lands and they have allowed the classification of lands to be modified during the settlement proceedings. Even during their entire life time, they have not made any qualms about the reclassification being done. Though Vedachala Mudaliar died in the year 1957 and the settlement proceedings stood completed in the year 1962, his wife Rajeswari was very much alive till 1981, almost for two decades after the death of Vedachala Mudaliar. But Rajeswari had not taken any steps to claim pre-existing right over the said lands. In fact, for the very first time, steps seems to have been taken by the petitioner only in the year 2011, inspite of the fact that he has alleged to have been adopted by the said Rajeswari even as early as



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in the year 1959. But for claiming that Vedachala Mudaliar has been in possession and enjoyment of the property, no material has been placed before this Court to show that Vedachala Mudaliar had pre-existing right over the property and the petitioner is claiming the right through the pre-existing right of his predecessors-in-title.

35. This Court, in the decision in ***Kiliammal & Ors. – Vs – State of Tamil Nadu & Ors. (W.P. No.14418/03, etc. Batch – Dted 29.4.2022)*** has held that the Government is the reason for the situation in which it has to face very many challenges on the judicial side on account of grant/non-grant of patta, more especially, ryotwari patta and in that context held as under :-

“115. The reason for the said situation is the act of the Government in not taking prompt steps in repealing enactments, which have exhausted its life and are no longer a requirement to be maintained. The Ryotwari enactments, both minor and major inams is one such law, which is still being held, though the said enactment has outlived its life. Due to the recalcitrant attitude of the Government in not repealing such enactments, not only corruption is allowed to flourish, but the same paves the way for land grabbing as well, which is a very big menace in the society. It is high time that the Government takes prompt action to repeal



such enactments, which are no longer required to be maintained so that many illegal acts can nipped in the bud. Not only the action to repeal the enactments would suffice, but equally the revenue officials, who did not have any jurisdiction to grant patta in respect of ryotwari lands have been responsible for the said act of granting patta in respect of ryotwari lands and, therefore, this Court feels that the Government should conduct an enquiry in order to fix the responsibility on the person, who has been instrumental in doing such nefarious acts and take appropriate action against such of those persons, which alone would restore the faith of the public in the functioning of the Governmental machinery. “

36. This Court had lamented the unexpected twists and turns, which many cases take up when filed from one authority to the other authority, more especially in view of the long passage of time and due to very many scenarios, which this Court does not want to place on record. However, only to put a stop to all such frivolous petitions, which result in one or the other order, the aforesaid direction was given.

37. This case is also one such kind where the predecessors-in-title of the petitioner have not claimed any right over the said subject lands and had, in fact,



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allowed the settlement proceedings to be taken to its finality and have not even taken an iota of steps either to challenge the said settlement proceedings or even go before the Settlement Authority during the settlement proceedings and claim patta. It is not the case of the petitioner that his predecessors-in-title had gone before the settlement authority during the settlement proceedings and claimed their right over the subject property and sought for ryotwari patta. Equally, after the demise of his closest predecessor-in-title, viz., Rajeswari in the year 1981, the petitioner has kept silent for three decades and for the first time, in the year 2011 gone before the Assistant Settlement Officer seeking issuance of patta for a proceeding, which had attained finality in the year 1962. The act of the petitioner in making the belated claim not only is barred by limitation logically, but even legally, limitation stands attracted u/r 2, which has been framed in exercise of powers u/s 67 and, therefore, rightly, the Commissioner of Land Administration has interfered with the order passed by the Assistant Settlement Officer granting patta and, therefore, the said order cannot be said to be flawed, erroneous, perverse, arbitrary or suffers from the vice of any illegality and does not warrant any interference at the hands of this Court with respect to W.P. No.2765/2020.



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38. Insofar as the contention of the petitioner relating to his challenge made in W.P. No.29241/2014 questioning the communication of the Commissioner of Land Administration in issuing administrative instructions with regard to grant of patta and seeking certain particulars, it is to be pointed out that Section 7 (d) of Act, 1948 vests in the Commissioner of Land Administration powers to issue instructions for the guidance of the Director, District Collectors, Settlement Officers and Managers of estates. Such being the case, the instructions having been issued in consonance with the power vested on the Commissioner of Land Administration, merely because it has some detrimental effect on the petitioner, the same cannot be said to be bad so long as the same is not claimed to be *ultra vires*. Further, the powers of the Commissioner of Land Administration u/s 7 of Act, 1948 is a time-tested provision, which has withstood the onslaught till date, invoking the said provision and issuing necessary communication on the administrative side cannot be said to be arbitrary and, therefore, the said prayer does not deserve any acceptance.



W.P. Nos.20949-29241/14 – 2765/2020

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39. Insofar as W.P. No.20949/14 is concerned, in view of the finding rendered above with regard to the power and jurisdiction of the Commissioner of Land Administration to interfere with the order passed by the Assistant Settlement Officer, in exercise of power of *suo motu* review, the relief sought for correcting the revenue records and to issue necessary patta in the name of the petitioner does not merit acceptance and the said relief also deserves to be rejected.

40. For the reasons aforesaid, all the writ petitions fail and, accordingly, the same are dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

21.09.2022

Index : Yes / No

Internet : Yes / No

GLN



W.P. Nos.20949-29241/14 – 2765/2020

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To

1. The Addl. Chief Secretary/Commissioner
Commissioner of Land Administration
Chepauk, Chennai 600 005.
2. Director of Survey & Settlement
Ezhilagam, Chepauk, Chennai 600 005.
3. District Collector of Kancheepuram
Kancheepuram (Post) & District.
4. The Assistant Settlement Officer (North)
Chennai 600 003.
5. The Tahsildar
Thirukazhukundram Taluk & Post
Kancheepuram District.



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W.P. Nos.20949-29241/14 – 2765/2020

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NOS.20949 & 29241 OF 2014
AND
W.P. NO. 27656 OF 2020**

**Pronounced on
21.09.2022**