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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.34515 OF 2002

Saveetha Medical and Education Trust,
Rep. By its President,
Dr.N.M.Veeraiyan,
No.162, Poonamallee High Road,
Velappanchavadi, Chennai-77.

... Petitioner

Vs

1. The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai ~ 600 005.
2. The Settlement Officer,
Tanjore.
3. The Assistant Settlement Officer,
Tiruvannamalai.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent relating in his proceedings No.K1.51523/2001 dated 13.03.2002 and quash the same.

For Petitioners : Mr.Saravanan

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader

O R D E R

The writ petition has been filed to quash the proceedings of the first respondent vide proceedings No.K1.51523/2001 dated 13.03.2002.



2. The case of the petitioner is that he is the President of the Petitioner's Trust which is duly constituted under Tamil Nadu Society Registration Act, 1975. The petitioner Trust has purchased 50 Acres of land from various individuals for the purpose of establishing an Engineering College. After verifying all records, the petitioner's Trust purchased the land to the extent of 1.86 acres from one G.D.Ranga, Mangal Ranga and Subramaniam and thereafter, he had applied ryotwari patta before the Assistant Settlement Officer, Thiruvannamalai and on 27.03.2001, he passed detailed order. If any person aggrieved by any order passed by the Assistant Settlement Officer, there is a time limit for filing an appeal. On the contrary, the first respondent, after lapse of a year, issued a show cause notice on 13.03.2002 to the petitioner that as to why the order of the settlement officer should not be cancelled. Challenging the said show cause notice, the present petition has been filed before this Court seeking to quash the impugned order.

3. The learned counsel for the petitioner submitted that the said show cause notice issued by the first respondent is time barred one. The decision of the Settlement Officer came to be effected on 27.03.2001. However, the petitioner has received the present show cause notice only on 13.03.2002 with the delay of one year. The first respondent cannot exercise the power suo-moto after nearly a year to revise the well considered order passed by the Settlement Officer. The Government has not properly explained the delay for initiating the suo moto proceedings. The learned counsel further submitted that the petitioner has filed detailed objection before the first respondent without prejudice to his rights. Therefore, the said show cause notice issued by the first respondent has to be quashed and allow this petition.

4. The learned Additional Government Pleader submitted that the respondents have denied the case of the petitioner and filed counter to that effect. In their counter affidavit, the respondents justified the action taken by the first respondent. For better understanding, the relevant paragraphs in the counter are extracted hereunder:

'1.) Mevalurkuppam Village in Sriperumbudur Taluk in Kancheepuram District was an Inam Village, notified by the government in G.O.Ms.No.2302, Revenue Department dated 1.9.1951 to be taken over by the Government under the Tamil Nadu Estate (Abolition & Conversion into Ryotwari Act XXVI of 1948 (hereinafter called the Act of 1948) and taken over on 1. 10. 1951. Ryotwari Settlement was introduced in this village from fasli 1370 (1960). During the settlement



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conducted under the Act XXVI of 1948, the land in S.No.300/12 to an extent of 1.86 Acre was classified as government Assessed Waste Dry', since no one has proved their entitlement for grant of patta under the provisions of the Act XXVI of 1948 and the lands were already vested with the Government under Section 3 (b) of the Act XXVI of 1948, free from encumbrances on the notified date. During the UDR scheme also, the land in S.No.300/12 A (0.37.0 ha) and S.No.300/12 B (0.37.0 ha) are registered as 'Government Assessed Waste Dry'.

2.) It is respectfully submitted that the purpose of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948 is to abolish Zamindari and Inam tenures and to introduce uniform ryotwari system in State. Under this Act, the ryotwari settlement was completed in the village 50 years ago. Against the decisions made under section 11 of the said Act during the Final Settlement Enquiry, appeal can be preferred before the Assistant Settlement Officer within 30 days from the date of such decision. However, the Government in G.O.Ms.No.1400, C.T & R.E. Dept. Dated 21.11.1975 amended the rules framed under the Act XXVI of 1948 to condone delay and entertain the appeal. The Government have amended the rules framed Under the Act powers conferred in Section 67 (2) (d) of the Act issued in the Notification in G.O.Ms.No.714, CT & RE Dept dated 29.06.1987. According to this amendment of this rule, the last date to apply for condonation of delay Was fixed as 20.08.1987. Therefore, after 20.08.1987, the Assistant Settlement officer or any other authority in the settlement hierarchy has no Power to entertain appeal or application under the Act XXVI of 1948. Hon'ble High Court in their order dated 9.2.2016 in W.A. No. 96 of 2016 have confirmed the notification fixing the last date chance as 20.8.1987 to apply for patta under the Act XXVI of 1948.

3.) It is submitted that while so, the Assistant settlement officer, Tiruvannamalai, during March 2007, received a time barred claim from the writ petitioner and considered the petition, though the Assistant settlement officer has no statutory powers and jurisdiction passed an order, in his S.R. No. (B1) 5/2001, dated 27.3.2001, granted patta for the lands in Mevalurkuppam village in Sriperumbudur Taluk in



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kancheepuram District in Survey Nos. 300/12 A and 300/12 B measuring a total extent of 1.86 acres to the writ petitioner under section 11 (a) of the Act XXVI of 1948, Since the order passed by the Assistant Settlement officer, tiruvannamalai, is against the settled principles and the provisions of Act XXVI of 1948, the settlement officer, Chennai-5, in his Rc.C1/3251/2001, dated 27.6.2001, has reported the irregularities found in the Assistant Settlement Officer's order and requested the Commissioner of Land Administration to cancel the irregular order,

4) Accordingly, in view of the principles of natural justice, the Special Commissioner and Commissioner of Land Administration in the show cause notice dated 13.3.2002 in K1/51523/2001 has provided an opportunity of being heard to the writ petitioner to defend themselves against the cancellation proceedings initiated against them and to show cause as to why the irregular/illegal orders of the Assistant Settlement officer, dated 27.3.2001 should not be cancelled for the reasons stated therein.

5.) Further, in reply to the show cause notice, the writ petitioner, in his reply ref. No.SMET/C/015/2002, dated 17.5.2002 Gas stated that they have purchased the property in the year 1992 by valid documents and their predecessors have also purchased the lands through valid sale deeds. However, they have not explained as to how their vendors and the predecessors had derived title to the properties in dispute, Further, the writ petitioner's have submitted that they may be offered a personal hearing to explain their case. Therefore, the writ petitioner was given a personal hearing on 26.8.2002, before the Special Commissioner and Commissioner of land administration. On the date of hearing, the counsel has appeared on behalf of the writ petitioner and sought for adjournment. As such, the case was posted to 13.9.2002 for further enquiry. However, the writ petitioner has not utilized the opportunity provided by the Commissioner of Land Administration. Instead, the writ petitioner has approached this Hon'ble High court of Madras in W.P .No.34515/2002 and obtained stay on 5.9.2002 in C.M.P .No.51472/2002 in W.P.No. 34515/2002 for further proceedings by the Commissioner of Land Administration. This W.P.No.34515/2002 was dismissed on 7.2.2012 by this Hon'ble High Court for



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non prosecution. On receipt of the orders of this Hon'ble high Court, hearing notice dated 2.4.2012, was again issued to the writ petitioner. The counsel for the writ petitioner filed a memo dated 17.4.2012 stating that steps are being taken to restore the dismissed writ petition and to defer the hearing. This Hon'ble High Court in their order dated 23.8.2012 have ordered that the W.P.No.34515/2012 is restored.

6) It is respectfully submitted that the Hon'ble High Court of Madras in their order dated 7.12.2017 have again dismissed the W.P.No.34515 of 2002 for default. Hence, a fresh Show cause notice dated 13.2.2018 was issued to the writ petitioner and an opportunity being heard was provided to the writ petitioner on 5.4.2018. However, on behalf of the writ petitioner, the Administrative Officer of Saveetha Medical and Educational Trust appeared before the Additional Chief Secretary / Commissioner of Land Administration on 5.4.2018, and informed that this Hon'ble High Court of Madras was pleased to allow W.M.P.No.9164/2018 by an order dated 28.3.2018 by setting aside the order of dismissal and restoring the writ petition to the file.

7) With reference to para 3 of the affidavit, it is submitted that the said Thiru G.D.Ranga and Tmt. Mangal Ranga had no right whatsoever on the lands under dispute, since the land was settled as 'Government Assessed Waste Dry', some 50 year ago and no authority under the Act XXVI of 1948, has no power to condone delay in the claim petition preferred after 29 .8.1987.

8) With reference to para 4 of the affidavit it is submitted that the Assistant Settlement Officer or any other settlement authorities under the Act XXVI of 1948 has no powers to condone delay and their powers can be exercised only during the currency of settlement and not after 50 years from the date of settlement. The documents relied by the writ petitioner are self serving and post settlement documents and cannot be considered for the grant of patta under the Act XXVI of 1948. The orders of the Assistant Settlement Officer, dated 27.3.2001 was passed without jurisdiction and a fraudulent and high



handed one and has no legal validity and deserves no consideration as it is devoid of merits.''

In view of the above, the learned counsel prays to dismiss the writ petition.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing on behalf of the respondents and perused the materials available on record.

6. On perusal of the records, it is clearly seen that the petitioner has filed the present writ petition challenging the show cause notice issued by the first respondent. On many occasions, the Hon'ble Apex Court has clearly held that the High Courts cannot interfere with the show cause notice issued by the respective authorities and this Court also well aware that this Court can be interfered with the show cause notice on very limited grounds. In the present case, if the Court will express any opinion on the merits of the case, it will be adversely affected the interest of justice. Therefore, this Court is not inclined to interfere with the impugned order and the prayer sought for by the petitioner cannot be granted and the same is liable to be rejected.

7. Considering the facts and circumstances of the case, this Court directs the petitioner to participate in the enquiry which will be conducted by the first respondent and also file a detailed objection, if necessary, within a period of four weeks from the date of receipt of a copy of this order. After receipt of such objection, the first respondent is directed to fix a date and conduct enquiry and decide the issue, independently, on merits and in accordance with law as early as possible.

8. In view of the above discussion, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai ~ 600 005.



2. The Settlement Officer,
Tanjore.

3. The Assistant Settlement Officer,
Tiruvannamalai.

+1cc to M/s.S.Saravanan, Advocate, S.R.No.12230

+1cc to the Government Pleader, S.R.No.12308

W.P.No.34515 of 2002

SKM(CO)
RLP(11/04/2022)