



W.P.(MD).No.2356 of 2013

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**ORDER RESERVED ON : 17.08.2022**

**ORDER PRONOUNCED ON: 25 .08.2022**

**CORAM:  
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.2356 of 2013  
and MP(MD).No.2 of 2013**

G.Palraj

....Petitioner

-Vs-

1.The Commissioner  
Land Administration, Survey and Settlement  
Land Administration Office  
Chepauk  
Chennai 600 005

2.The Settlement Officer  
Thanjavur  
Thanjavur District

3.The District Revenue Officer  
Tirunelveli District  
Tirunelveli

4.The Tahsildar  
Sankarankovil Taluk  
Tirunelveli

...Respondents

**Prayer:** This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order Tha.Pa.11/17/2009, dated 23.09.2010 passed by the first respondent and quash the same as illegal.



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For Petitioner : Mr.F.X.Eugene  
For Respondents : Mr.S.Shanmugavel  
Additional Government Pleader

### **ORDER**

The present writ petition has been filed challenging an order passed by the first respondent herein under which the first respondent has invoked his suo motu power and cancelled the Patta granted by the Assistant Settlement Officer under Act 26 of 1948.

2.The petitioner has contended that he is the owner of 1.50 acres in Survey No.434, 1 acre in Survey No.441 and 50 cents in Survey No.442, totally an extent of 3 acres. His father Ganapathy was the original owner and he has enjoying the same by cultivating the said lands. However, the said lands were wrongly assessed as poramboke land during the Settlement proceedings arising out of Estate Abolition and Royatwari Settlement Act 26 of 1948. His father has not taken any steps to change the nature of the land in the revenue records. After the death of his father, the petitioner has inherited the same and he has dug a Well in Survey No.434. Thereafter, the petitioner had submitted an application to the Assistant Settlement Officer under Section 11(a) of the Tamil Nadu Estate Abolition and Conversion into Royatwari Act 26 of 1948 for re-classifying the said lands and to grant patta



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in the name of the petitioner. After conducting an enquiry, the Assistant Settlement Officer, Madurai had recommended to the Settlement Officer at Thanjavur to grant patta in the name of the petitioner. The second respondent by his proceedings dated 29.03.2000 had granted patta in favour of the petitioner in Patta No.2186. However, no one preferred any appeal as against the order passed by the second respondent herein. Hence, the said order has become final.

3.The petitioner had further contended that the first respondent herein has suo motu taken the matter and he has sent a notice to the petitioner and passed an order on 23.09.2010 and reversed the order passed by the second respondent herein. Hence, the present writ petition.

4.According to the learned counsel for the petitioner where an order has been passed by the Settlement Officer under Act 26 of 1948, when no appeal is filed, it became final and it is a title deed. The first respondent cannot exercise his suo motu power under Section 5(2) of the Act after a long gap and hence, he has no jurisdiction whatsoever. Hence, he prayed for allowing the writ petition and restoring the order passed by the second respondent.



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5.Per contra, the learned Additional Government Pleader appearing for the respondents had contended that as per G.O.(Ms).No.714 Revenue Department dated 29.06.1987, the Settlement Officer under the said Act will not have any power to consider any application that was filed after 20.08.1987. The present application having been filed in the year 1999, the Settlement Officer under the Act does not have any power to entertain such an application. He had further contended that the survey number in dispute is found to be Odai poramboke and based upon the same, the District Collector had filed his objection before the first respondent herein. Only based upon the objection raised by the District Collector, the first respondent has initiated suo motu proceedings. Hence, the initiation of suo moto by the first respondent herein is legally sustainable. Hence, he prayed for dismissal of the writ petition.

6.I have considered the submissions made on either side and perused the materials available on record.

7.The petitioner had made an application to the Assistant Settlement Officer on 25.09.1999 for grant of patta for 3 acres in 3 different survey numbers. The Settlement Officer namely the second respondent herein by his order dated 29.03.2000 has granted Patta under Section 11(a) of Act 26 of



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1948. Thereafter, a Patta has been granted in favour of the writ petitioner in Patta No.2186.

8.The first respondent herein has initiated suo motu proceedings under Section 5(2) of Act 26 of 1948 and had issued a notice to the writ petitioner as against the order of the second respondent dated 29.03.2000. A perusal of the impugned order indicates that all three survey numbers for which the petitioner has sought for patta, have been classification as Odai poramboke. This classification was made during the settlement proceedings under Act 26 of 1948. This classification has not been challenged by the writ petitioner or his father at any point of time especially within a period of limitation as prescribed under the said Act.

9.The first respondent has further found that after a period of 38 years namely on 29.11.1999, the petitioner had made an application to the Assistant Settlement Officer and the order has been passed by the settlement officer on 29.03.2000. As per G.O.Ms.No.714, Revenue Department, dated 29.06.1987, the Settlement Officer under Act 26 of 1948 is not entitled to accept any application for grant of patta if such application are presented after 20.08.1987. In the present case, the application having been filed in the year 1999 and the Settlement Officer ought not to have accepted the said application. The first respondent has further found that the survey number in



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dispute have been leased out to Tamil Nadu Cement Corporation Limited under G.O.(P).No.672, Industries Department, dated 31.08.1999 for quarrying of Lime stone. Only thereafter an application has been filed by the petitioner for grant of settlement patta. The first respondent has further found that the petitioner has not produced any document to establish his title or possession over the disputed survey numbers prior to Act 26 of 1948.

10.The impugned order has been passed by the first respondent herein on the ground that the Patta granted by the Settlement Officer is without jurisdiction and the lands have been leased out to Tamil Nadu Cement Corporation Ltd., and the petitioner has not produced even a single document to establish his title or possession before coming into force of Act 26 of 1948. Even before this Court, the petitioner has not produced any document to establish his title or possession which is anterior to coming into force of Act 26 of 1948.

11.In such view of the matter, I do not find any illegality or infirmity in the order passed by the first respondent herein. The writ petition is devoid of any merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**25 .08.2022**

Internet : Yes/No  
Index : Yes/No  
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To

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**R.VIJAYAKUMAR, J.**

msa

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