



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.17666 of 2015

G.Manisekaran

...Petitioner

Vs

1.The Additional Chief Secretary,
& Commissioner of Land Administration,
Ezhiligam,
Chepauk,
Chennai - 600 005

2.The Director of Survey & Settlement,
Survey House, 3rd Floor,
Chepauk,
Chennai - 600 005.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e, the Additional Chief Secretary & Commissioner of Land Administration, Chennai in his letter No.K1/8234/2015, dated 30.06.2015 and quash the same and consequently direct the respondents to grant patta as per the law lay down by the Principal Court, Madras in W.P.No.68 of 2005, dated 03.12.2009, reported in 2010 Writ LR.356, within a specified time frame.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.A.Baskaran
Additional Government Pleader

O R D E R

This writ petition has been filed as against the impugned order passed by the first respondent in first respondent in his letter No.K1/8234/2015, dated 30.06.2015.

2.By the impugned order in this writ petition, the Additional Chief Secretary & Commissioner of Land Administration, Chennai, rejected the request of the petitioner for grant of Patta in S.No.113, Karaikudi Taluk and Village, Sivagangai District to an extent of 5.59 acres.



3.The case of the petitioner is that the aforesaid land in Karaikudi Village is a submersible patta land in the pre-settlement revenue records. It is popularly known as "Kulamkorvai". Originally, the petitioner has purchased the subject land from one Tmt.Valliammai Achi on 15.02.2013. According to the petitioner, the petitioner, his vendor and his vendor's predecessors were cultivating the land, even before the Ryotwari settlement. According to Section 11(a) of the Estate Abolition Act (Act 26 of 48) and as per the Board of Revenue Proceedings Perm/212/71, dated 13.05.1971, the owners of such lands are entitled to Patta by the Settlement Authorities. But the subject land has been mistakenly included in the total extent of Karaikudi main tank, during the period of estate abolition. Since the Assistant Settlement Officers were not available in the District, he preferred a petition to the Director of Survey & Settlement for grant of Patta in respect of the subject land. But, the Director of Survey and Land Administration directed the petitioner to prefer an appeal to the Commissioner of Land Administration, Chennai. Accordingly, he preferred an Appeal before the Commissioner of Land Administration, Chennai, the first respondent herein. But his request was rejected on 30.06.2015 and the same is under challenge in this writ petition.

4. The learned Additional Government Pleader appearing for the respondents submits that the petition filed by the petitioner is not an appeal. Initially, when the petitioner approached the Director of Survey and Settlement, it has been stated that the land for which the petitioner sought for patta is a water body and as per the rules amended in the Notification issued by the Government in G.O.Ms.No.714, CT & RE Department, dated 29.06.1987, the request of the petitioner for grant of patta under the ACT XXVI of 1948 cannot be considered. However, liberty was given to the petitioner to approach the first respondent herein to prefer an appeal. He further submits that the appeal provision is only applicable to the Statutory orders. Since the powers of all the settlement authorities to condone the delay and entertain application, under the provision of the Act XXVI of 1948 are barred by the Notification issued in G.O.Ms.No.714, CT & RE Department, dated 29.06.1987. It was also made clear that the Government order referred by the petitioner in G.O.Ms.No.1300, Revenue Department, dated 30.04.1971 is meant for concession for applying the patta outside the scope of the Act XXVI of 1948. However, the Government in G.O.Ms.No.589, CT & RE Department, dated 14.05.1975 fixed the last date as 30.06.1975, for applying the patta, outside the scope of the Act. Hence, the request of the petitioner for grant of patta has been rightly rejected by the first respondent, as per rules amended in the Notification issued in G.O.Ms.No.714, CT & RE Department, dated 14.05.1975.

5.This Court considered the rival submissions made by the petitioner and the learned Additional Government Pleader and perused the materials placed on record.



6. At this juncture, the learned counsel appearing for the petitioner submits that the writ petition may be disposed of with a liberty to the petitioner to approach the appropriate civil Court.

WEB COPY

7. Recording the submission made by the learned counsel for the petitioner and also this Court finds no infirmity in the order of the first respondent, this Writ Petition is disposed of with a liberty to the petitioner to approach the appropriate civil Court to work out his remedy. No Costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vrn

To

1.The Additional Chief Secretary,
& Commissioner of Land Administration,
Ezhiligam,
Chepauk,
Chennai - 600 005

2.The Director of Survey & Settlement,
Survey House, 3rd Floor,
Chepauk,
Chennai - 600 005.

+1 CC to M/s.S. VISVALINGAM, Advocate (SR-18220[F] dated 12/04/2022)

W.P(MD)No.17666 of 2015

08.04.2022

RD(03.06.2022) 3P 4C