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W.A.No.1122 of 2009, W.A.No.2041 of 2010
and W.P.No.715 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

W.A.No.1122 of 2009 and M.P.No.1 of 2009 and M.P.No.2 of 2011

and

W.A.No.2041 of 2010 and M.P.No.1 of 2010

and

W.P.No.715 of 2010

W.A.No.1122 of 2009

- 1.Noorjahan
2. S.M.Nayeemunisa
3. S.M.Zubaidunisa
4. Amthul Thawab
5. S.M.Asgari
6. M.Syed Moinuddin
7. M.Syed Jalaluddin
8. Shabir Hussain

... Appellants

Vs.

- 1.The Secretary to Government,
Revenue Department, Secretariat,
Chennai 600 009.



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2. The Special Commissioner and Commissioner
of Land Administration,
Chepauk, Chennai 600 005.

3. The Special Commissioner and Director of
Survey and Settlement Chepauk,
Chennai 600 005.

4. The Settlement Officer, Chepauk,
Chennai 600 005.

5. The Chief Engineer, Highways Department,
Chepauk, Chennai 600 005.

6. Manali R.Srinivasan

... Respondents

In W.A.No.2041 of 2010

1. The Secretary to Government,
Revenue Department, Secretariat,
Chennai 600 009.

2. The Special Commissioner and Commissioner
of Land Administration,
Chepauk, Chennai 600 005.

3. The Special Commissioner and Director of
Survey and Settlement Chepauk,
Chennai 600 005.

4. The Settlement Officer, Chepauk,
Chennai 600 005.



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5. The Chief Engineer, Highways Department,
Chepauk, Chennai 600 005.

... Appellants

Vs.

Manali R.Srinivasan

... Respondent

W.P.No.715 of 2010

- 1.Noorjahan
2. S.M.Nayeemunisa
3. S.M.Zubaidunisa
4. Amthul Thawab
5. S.M.Asgari
6. M.Syed Moinuddin
7. M.Syed Jalaluddin
8. Shabir Hussain

... Petitioners

Vs.

- 1.The Secretary to Government,
Revenue Department, Secretariat,
Chennai 600 009.
2. The Special Commissioner and Commissioner
of Land Administration,
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3. The Special Commissioner and Director of
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4. The Settlement Officer, Chepauk,
Chennai 600 005.



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5. The Chief Engineer, Highways Department,
Chepauk, Chennai 600 005.

6. Manali R.Srinivasan

... Respondents

Prayer in W.A.No.1122 of 2009 and W.A.No.2041 of 2010: Writ Appeals filed under Clause 15 of Letters Patent to set aside the order passed by this Court in W.P.No.12425 of 2008 dated 29.04.2009.

Prayer in W.P.No. 715 of 2010: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of Certioraified Mandamus, calling for the records of the second respondent dated 20.08.2009 in ref.I13551/3009 confirming the order of the third respondent dated 04.07.2007 in ref.Na.Ka.E1/6206/2005 and quash the same and further direct the fourth respondent to issue ryotwari patta to the petitioners for lands in T.S.No.21, Block No.5 of Venkatapuram Village, Mambalam-Guindy Taluk, measuring an extent of 4.23 acres.



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In W.A.No.1122 / 2009 and W.P.No.715/2010

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For appellants in writ appeal
and petitioners in writ petition : Mr.P.Chandrasekar

For respondents in writ appeal : Mr.R.Shunmugasundaram
and writ petition Advocate General, assisted by
Mr.T.Arunkumar, Addl.Govt.Pleader
Miss Ag.G.Shakeenaa
Mr.B.Thiyagarajan
for Respondents 1 to 5

No appearance for R6

In W.A.No.2041 of 2010

For Appellants : Mr.R.Shunmugasundaram
Advocate General
Assisted by
Mr.T.Arunkumar, Addl.Govt.Pleader
Miss Ag.G.Shakeenaa
Mr.B.Thiyagarajan

For respondent : No appearance for sole respondent

COMMON JUDGEMENT

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

These Intra Court Appeals in W.A.No.1122/2009 and W.A.No.2041/
2017 have been moved before this Court by Mrs. Noorjahan and others and



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also by the Government respectively, challenging the order passed by the learned Single Judge in W.P.No.12425 of 2008 dated 29.04.2009, whereby the concerned Special Commissioner of Land Administration was directed to issue patta to Manali R.Srinivasan/writ petitioner for the property situated in T.S.No.21 in Block No.5 of Venkatapuram Village, Mambalam-Guindy Taluk, Chennai measuring to an extent of 4.23 acres.

2. The writ petition in W.P.No.715/2010 has been filed to quash the order passed by the Special Commissioner of Land Administration dated 20.08.2009, and consequently, direct the respondent concerned to issue ryotwari patta to them for the lands to an extent of 4.23 acres in T.S.No.21, Block No.5 of Venkatapuram Village.

3. The facts and circumstances of the cases and the issues involved in the writ appeals and the writ petition are one and the same and hence, this Court passes the common order.



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4. For the sake of convenience, the parties are referred to as per their ranking in Writ Appeal No.1122/ 2009.

5. Despite notice has been served to Manali R.Srinivasan, 6th respondent in W.A.No.1122/2009, none appeared on behalf of him.

6. The brief facts leading to the filing of the appeal in W.A.No.1122/2009 and W.P.No.715/2010 are briefly as follow:

The land in T.S.No.21 was originally belonged to Zamindar Mr.Hussain Ali Sahib and thereafter, G.Saifuddin and Saidunnisa Bi became the grantees of the land, vide rokka patta issued to them during fasli 1358. The above said G.Saifuddin and Saidunnisa Bi had settled the above land by way of two settlement deeds dated 03.02.1951 and 09.05.1951 in favour of two persons viz., Shabir Hussain, the 8th appellant and Syed Maqdam Moideen, the father of the appellants 2 to 7 and husband of the first appellant. The above said two settlees executed a registered lease deed dated 11.05.1951 in favour of one Abdul Sattar Sahib for cultivation of the land comprised in Paimash No.75/1 and 75/2 measuring an extent of 3



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canees and 9 grounds in Venkatapuram Zamin village.

6.1 Earlier, the father of Manali R.Srinivasan viz., Manali Ramakrishnan had filed a W.P.No.1018/1963 before this Court seeking direction to the authorities to grant patta for the land in Survey no.21 of Venkatapuram Village and this Court, vide order dated 10.02.1967 had remitted the matter back to the Board of Revenue for a full and detailed investigation with regard to the character of the land. Pursuant to the above said order, the Board of Revenue, Chepauk, vide order dated 31.07.1967, had remitted the matter to the file of Director of Settlements, Madras for fresh enquiry, wherein, the Assistant Settlement Officer, Chengalpattu had considered the matter and pending matter, the settlees, viz. G.Saifuddin and Syed Makdoom Mohideen had filed a petition to implead them in that proceedings and it was dismissed. Against which, S.M.Mohideen, settlee had filed W.No.1010/1969 and it was dismissed, vide order dated 16.02.1961.



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6.2. Subsequently, on behalf of the above settlee viz. Shabbir Hussain and Syed Mohammed Mohideen, their Power of attorney R.Senguttuvan had given a representation on 04.12.2003 before the District Collector, Chennai to issue patta, stating that they are the owners of the land in survey no.21, part 5, measuring 75 grounds and 1210 sq.ft.

6.3. Further, the sixth respondent/Manali R.Srinivasan had also given a representation dated 23.12.2003 seeking patta with respect to the land in S.No.21, Block No.5, measuring to an extent of 4.23 acres in Venkatapuram Village and it was dismissed by the settlement officer, vide order dated 25.1.2005.

6.4. Again, a petition dated 25.04.2005 given by R. Manali Srinivasan, s/o Manali Ramakrishnan seeking patta was remanded to the settlement officer by the Special Commissioner and Director of Survey and Settlement, vide order dated 19.09.2005. Subsequently, the Special Commissioner and Director of Survey and Settlement, Chepauk had passed an order dated 04.07.2007, on the petitions given by i) Senguttuvan, ii)



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Manali R.Srinivasan, iii) Kannapiram, requesting patta with regard to S.No.21, 4.23 acres of Vnkatapuram Village, holding that the petitions preferred against the order of the then Board of Revenue cannot be entertained and hence, it was not considered. Against which they had filed a revision petition before the Special Commissioner and Director of Survey and settlement, Chepauk, and to grant ryotwari patta in respect of the land comprised in T.S.No.21 measuring to an extent of 3 kanis and 13 grounds in Venkatapuram Village.

6.5. When the revision was pending, the appellants, viz. Noorjahan and others have also filed the writ appeal No.1122/2009, as against the orders passed by the writ court in W.P.No.12425/2008 dated 29.04.2009, as stated supra. Pending writ appeal, the above said revision petition was dismissed on 20.08.2009. Against which they had filed W.P.No.715/2010 to quash the above said order and direct the respondent concerned to issue ryotwari patta to them for the lands to an extent of 4.23 acres in T.S.No.21, Block No.5 of Venkatapuram Village.



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7. The brief facts leading to the filing of the writ appeal No.2041/2010 are as follows.

The predecessors of Manali R.Srinivasan are the owners of above said disputed property including the lands comprised in S.No.13, 14 of Block No.4 and S.Nos.20, 22, 23 and 24 of Block No.5 of Venkatapuram Village. In the year 1951, the Assistant Settlement Officer had granted patta with regard to S.No.13, 14, 22 and 23; and dropped the action further, with regard to S.N.24; and had not granted patta in respect of S.No.21, stating that it was classified as Kuttai, which is a non ryotwari in character, vide proceedings dated 30.05.1959. According to the writ petitioner, out of 4.23 acres of land in S.No.21, only 9 cents of land was a Kuttai, as per fasli 1827 (year 1918) and fasli 1352 (year 1943). Therefore, the father of the writ petitioner viz., Manali Ramakrishnan had filed a revision and it was rejected on 3.10.1959 again the second revision was also rejected on 19.09.1962. Therefore, he filed W.P.1018/1963 against the order dated 19.09.1962 and the writ court, by order dated 10.02.1967 had remitted the matter for reconsideration. Pursuant to the order, stereo type enquiry was conducted and the Assistant Settlement Officer had rejected the claim on 30.10.1971.



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Again the revision and the second revision were also rejected on 11.01.1973 and 13.06.1975 respectively. Further a revision before the Board of Revenue was also rejected on 31.12.1975.

7.1. According to the writ petitioner/Manali R.Srinivasan, by taking into account the Government letter dated 06.06.1977, the Board of Revenue had clarified the point under item (iii) that patta may be allowed in respect of lands, which are not really Oorani or tank at present, even though the pre-settlement account and settlement records may show them as Oorani or tank promboke, but, the above aspect was not considered in the case of the writ petitioner. The Assistant Settlement Officer, Thiruvannamalai (in-charge) had also in his proceedings dated 30.11.2000, addressed to the Collector of Madras has stated that the land in S.No.21 has been wrongly classified and included in the highway department. Further, the Tahsildar, Mambalam-Guindy Taluk, in the communication dated 31.08.2001 sent to the Collector of Madras, has stated that while conducting re-survey the land in S.No.21, it has been wrongly classified as Sarkar promboke and included in the Highways Department.



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7.2. After coming to know the above facts, the writ petitioner/ Manali R.Srinivasan had filed a petition dated 23.12.2003 seeking patta over the disputed property and the Settlement officer had rejected the same on 25.01.2005. Again he filed a petition dated 25.04.2005 seeking patta and further filed W.P.No.9445/2006 for direction to dispose his petition, wherein, direction was given on 05.04.2006 to consider his petition. Pursuant to the above order, the Settlement officer, considered the petition dated 25.04.2005 and passed an order on 04.07.2007, by rejecting the petition. Again, a fresh detailed revision was filed by the petitioner on 20.08.2007 and since it was not considered, he filed W.P.No.37299/2007 and obtained a direction for consideration, vide order dated 20.12.2007. Pursuant to that order, the Special Commissioner of Land Administration had passed an order on 09.04.2008, rejecting the claim of the petitioner. Challenging the above said order, the writ petitioner had filed W.P.No.12425/2008 and the writ Court has allowed the writ petition and directed the official concerned to issue patta in favour of the writ petitioner. As against the order passed in the above writ petition, the present two appeal in W.A.No.2041/2010 has been filed the Government.



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8. The learned counsel appearing for the appellants in W.A.No.1122/2009 and petitioners in W.P.715/2010 argued the matter by reiterating the facts as stated in the affidavits filed in support of the appeal as well as the writ petition.

9. The learned Advocate General appearing for the Government submitted that, earlier, the predecessors of Noorjahan and others (appellants in W.A.No.1122/2009) namely S.M.Mohideen and Shabbir Hussain had filed a writ petition in W.P.No.2360/1966 seeking to issue patta in favour of them in respect of the land in T.S.No.21, Block No.5 of Venkatapuram village and it was dismissed on 10.02.1967 on the ground of inordinate delay. Thereafter, one Kannapiran, power agent of above said S.M.Mohideen and Shabbir Hussain had filed a petition to the Collector, Chennai for grant of patta over the disputed property, that too after a lapse of 32 years and again filed a petition to the Government on 18.10.2002 seeking patta.



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9.1 The learned Advocate General further submitted that Subsequently, S.M.Mohideen and Shabbir Hussain had filed a petition to issue patta in favour of them on 7.11.2003 and it was rejected by the Government, vide letter dated 14.1.2004, as it was time barred. Again, the Special Commissioner and Commissioner of land administration had rejected the petition on 19.02.2004 filed by them. Further, Mr.Senguttuan, the power agent of the above said S.M.Mohideen and Shabbir Hussain had filed a petition on 17.01.2005. Thereafter, S.M.Mohideen and Shabbir Hussain again claimed patta over the disputed property and it was rejected by the Settlement Officer, vide order dated 04.07.2007. Again, the power agent of the above S.M.Mohideen and Shabbir Hussain had filed a petition seeking patta and it was rejected by the Special Commissioner and Commissioner of Land Administration, vide order dated 24.09.2007, as it was time barred and also the claim was already rejected by the Government as well as the Special Commissioner and Commissioner of land administration. Further, as against the above said order dated 04.07.2007, one Senguttuvan, power agent of S.M.Mohideen and Shabbir Hussain had filed revision and it was also rejected by the above Commissioner of land



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administration on 20.08.2009. As against this order, W.P.No.715 of 2010 has been filed. Also, as against the order passed by this Court in W.P.No.12425/2008 dated 29.04.2009, the appellants have also filed W.A.No.1122/2009. Therefore, the learned Advocate General submitted that already the claim of the appellants by way of filing petitions and revisions were considered by the Government as well as the Settlement officer and the Special Commissioner of Land Administration, however, by suppressing the earlier orders with regard to the same property, again and again the appellants have filed petitions and revisions and hence the claim of the appellants in W.A.No.1122/2009 is liable to be rejected.

10. The learned Advocate General further submitted that, as regards to the W.A.No.2041/2010, the disputed land was taken over by the Government as early as on 03.01.1951 under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1958 and considering it as a was government poromboke land, it was transferred to the Highways Department, vide G.O.Ms.No.2454 dated 26.08.1959 for the use of Highways Research Station. Therefore, the claim made by Manali



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Radhakrishnan and after his demise, his son Manali R.Srinivasan were rejected by passing appropriate orders in petition, revision and appeals by the authorities concerned and such order passed by the Board of Revenue dated 31.12.1975 reached finality. However, after 27 years from the above date, Manali R.Srinivasan had once again filed petition, revision and writ petition. Finally, as against the order passed by the Special Commissioner and Commissioner of Land Administration dated 09.04.2008 he filed W.P.No.12425/2008, whereby, the learned single judge, without considering the documents in proper perspective, has allowed the writ petition. According to the learned Advocate General, Therefore, the order of the writ court is liable to be set aside.

11. Heard the learned counsel for the appellants/writ petitioners and the learned Advocate General appearing for the respondents and we have perused the materials on record.



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12. *Now, the issues to be decided are that,*

i) Whether the appellants in W.A.No.1122/2009 and the petitioners in W.P.No.715/2010 are entitled for grant of patta in their name with regard to the disputed property, as prayed for?

ii) Whether the order passed by this Court in W.P.No.24537/2013 dated 05.11.2015 has to be quashed or not?

13. Issue No.1.

The appellants viz. Noorjahan and others are not parties to the writ petition in W.P.No.12425/2008, however, as against the order passed in the above writ petition, they have filed the present appeal in W.A.No.1122/2009 on the ground that they are having title right with regard to the disputed property by way of settlement deeds executed by Syed Maqдум Mohideen and Shabir Hussain in their favour.

14. A perusal of the records shows that the writ petition in W.P.No.2360/ 1996 filed by S.M.Mohideen (Syed Maqдум Mohideen) and Shabir Hussain, seeking ryotwari patta for the land in T.S.No.21, Block



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No.5 of Zamin Venkatapuram Village, was dismissed by this court, vide order dated 10.02.1967 itself on the ground of delay and laches. Though the prayer for granting Ryotwari patta to the disputed land was dismissed by this court and the same has become final, by way of filing appeal and writ petition, the appellants seek the same prayer for granting patta for the disputed land, which is not maintainable. Further, we have also carefully gone through the documents filed by the appellants to support their contentions, wherein, we find no materials to grant patta in their favour for the disputed property. Therefore, point No.1 is answered against appellants /Noorjahan and for the same, the writ appeal as well as the writ petition filed by them are liable to be dismissed.

15. Issue No.2

According to the respondents/ Department, the land in question Comprised in T.S. No.21, measuring to an extent of 4.23 acres is a government promboke and was taken over by the Government under the Tamil Nadu Estates (Abolition and Conversion into Ryotwaari) Act 1948 Act on 03.01.1951. Subsequently, as the land was classified as Government



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Promboke land, the same was alienated to the Highways Department, as evidenced by the letter No.2359-A2/56-61 dated 31.07.1957 from the Highways Research Station to the Collector of Madras. However, since one Manali Ramakrishnan had claimed the right over the disputed property, suo moto enquiry under Section 11(A) of the Act 1948 was conducted by the Assistant Settlement Officer and he has passed an order dated 30.05.1959, rejecting his claim. Further, as per G.O.Ms.No.2454, Revenue (A3) Department, dated 26.08.1959, the land was transferred from the Revenue Department to the Highways Department. The appeal filed by Manali Ramakrishnan, as against the order of settlement officer was also confirmed by the Director of Settlement, vide order dated 11.03.1960. Against which, the writ petition in W.P.No.1018/1963 was filed and as per order of this Court dated 10.02.1967, the matter was remitted back and again, after making fresh enquiry, the Assistant Settlement officer had disallowed the claim for granting patta, vide order dated 30.10.1971. Against which, the revision and the appeal were also ended against him, as per order dated 11.01.1973 and 13.06.1975 respectively. Finally the revision filed by him was also rejected by the Board of Revenue (Settlement of Estates), vide



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order dated 31.12.1975.

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16. It is the contention of the respondents/Department that, the said Manali R.Srinivasan had filed an application seeking patta on 23.12.2003 and it was considered and rejected by the settlement officer on 25.01.2005. Further, he filed an application on 25.04.2005 seeking patta and it was forwarded to the Settlement officer. Thereafter, the Settlement Officer passed an order dated 04.07.2007, rejecting the claim for granting patta. and the revision dated 20.08.2007 was also rejected by the Special Commissioner and Commissioner of Land Administration, vide order date 09.04.2008. Against which he filed W.P.No.12425/2008 and it was allowed by this Court on 29.04.2009.

17. It is to be noted that, in an earlier round of litigation, with regard to the disputed property, the father of Manali R. Srinivasan, namely, Manali Ramakrishnan had filed application after application; revision after revision; appeal after appeal; and writ petition after writ petition seeking patta. Finally, vide order dated 31.12.1975, the claim for granting patta was



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rejected and it has become final.

18. In the second round of litigation, after demise of his father, Manali R.Srinivasan had filed an application on 23.12.2003, that too after 27 years and it was also rejected, vide order dated 25.01.2005. Again, he had filed an application, revision, writ petition and appeal. Finally, vide order dated 09.04.2008, the Special Commissioner and Commissioner of Land Administration has passed an order, wherein, it was observed thus;

“ 9. The petitioner has also agreed that the suit land was not under his possession and enjoyment since the land was taken over by the Government under the provision of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act XXVI of 1948. The Tahsildar in his inspection report has stated that the suit land is surrounded by the compound wall constructed by Highways Department. Apart from that G.O.Ms.No.714, Commercial Taxes and Religious Endowment department dated 29.06.1987 has made 29.07.1987 as the last date to submit application for grant of patta under the provisions of the Act XXVI of 1948. Besides, there is a subsisting order of Board of Revenue dated 31.12.1975 in this issue.

10. In view of the above discussions, the request of the petitioner for grant of patta in respect of communal land in T.S.No.21, Block No.5 of Venkatapuram Village, which is



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classified as Government Poramboke Highways Department is hereby rejected.”

19. It is the contention of the sixth respondent/Manali R.Srinivasan that, the Department had rejected his claim for granting pata solely on the ground that the disputed land was classified has poramboke, which has not been supported by any other evidence and further, the Board of Revenue, in its order dated 31.12.1975 has declared that the disputed land is Kuttai, based on the wrong entries made in the revenue records. It is his further contention that his predecessor was granted patta for the lands, including the disputed land and the settlement officer has also in the earlier proceedings had accepted his predecessor's title and interest over the disputed property, however, had rejected the claim, only based on the character of the land as kuttai and also the claim is barred by limitation. However, since the disputed land is no longer a poramboke, or a government land, or a communal land, or a Oorani, or a pond, as per the admission of the departments, the respondent/ Manali R.Srinivasan is entitled for granting patta for the disputed property.



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20. The above contentions were denied by the Department in the counter affidavit by stating that there is no classification mistakes as alleged by the sixth respondent, as the land was legally transferred to the Highways Department, as per G.O.Ms.No.2454, Revenue dated 26.08.1959 and the land is in possession of the Highways Department and it is compounded by the Highways Department. It is further contended by the Department that prior to the settlement of lands, the lands in T.S.No.24 of the claimant's predecessors were acquired for Highways Department under Land Acquisition Act, however, the land in question in T.S.No.21 was being a pond, considered it as a poramboke land, the Highways Department was allowed to enter upon the land and it was leveled by the said Department at its own cost and later, as per G.O.No.2454 dated, 26.08.1959, the land was transferred to Highway Department. The above contentions were not denied by the respondent. Therefore, since the land was classified as Kuttai, which is non Ryotwari in Character, the respondent/ Manali R.Srinivasan is not entitled to for grant of Ryotwari patta.



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21. At this juncture, it is worthwhile to mention that, as per G.O.Ms.No.1300, Revenue, dated 30.04.1971, clarification was issued to grant patta for the lands, which were taken over under the Tamil Nadu Estates (Abolition and conversion into Ryotwari) Act. The above G.O. is reproduced as under.

GOVERNMENT OF TAMIL NADU ABSTRACT Lands - Lands in Estates taken over under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 - Grant of patta to persons in continuous possession and enjoyment - Orders passed: Revenue Department G.O.Ms.No.1300 Dated 30.4.1971.

1. G.O.Ms.No.1501. Revenue dated 8.7.58.
2. Govt. Memo No.68348/Ji/63-3 Revenue dt. 19.9.1963.
3. G.O.MS.No. 1312. Revenue dt.26.7.67.
4. G.O.Ms.No. 1925. Revenue dt.3.11.67.
5. Govt. Memo N0.41399/JI/68-2. Revenue dt.16.7.68.
6. G.O.MS.No.641, Revenue dt.28.2.70.

In the G.O. first read above, the Government passed orders that landholders who could not apply of ryotwari patta in time under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act. 1948 (Tamil Nadu XXVI of 1948) (hereinafter referred to as the Act) but who would have got patta if they had applied in time, might be granted patta outside the scope of the Act, if they apply to the Collector of the District concerned. In the Memo, second



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read above, the Government ordered that the vendees from the landholders might also be treated on the same basis as landholders. Subsequently in 1967, the Government passed orders in the G.O. third read above that the concession allowed to the landholders should be executed to the ryots also and that they should be granted patta outside the scope of the Act on the same basis as laid down in the first read above. Thus the existing orders Provide for cases for the grant of patta to the landholders and ryots outside the scope of the Act in cases:-

- (i) Where the landholder or the ryot or the vendee have got patta if he had applied in time under the Abolition Act but failed to make the application in time,
- (ii) Where the parties case into possession of better documentary evidence showing better title to grant of patta which were not available at the time when the applicants were heard by the appropriate authorities under the Act.

2. It has been brought to the notice of the Government that even the implementation of the orders referred to above, there are yet a large number of persons who have been in continuous possession and enjoyment of the land for years together in estate, taken over under the Act. Such persons have not been granted patta either because they did not come under the eligible category for the grant of patta under the Act or under the orders of the Government referred to above. It has been represented that it will be a hardship if such persons who have been in continuous possession and enjoyment of their lands for together are not granted pattas.



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3. The land in respect of which these persons have been in continuous possession and enjoyment have vest in the Government absolutely under the Act. The Government after careful consideration have decided that patta should be granted to such persons on the basis of such continuous possession and enjoyment of the land. The Government, therefore direct that such persons may be granted patta in accordance with the instructions given below:-

(1) Any Person who has been in continuous possession and enjoyment of any land in the estates taken over under the Act, may apply for the grant of patta in respect of such land.

(a) to the Revenue Divisional Officers in cases where the extent of such land does not exceed 5 acres of wet or irrigable dry or 10 acres of dry lands and

(b) to the District Revenue Officer-Collector in all other cases. Persons whose claims have been rejected under the Act or under the orders referred to above, may also apply this order, if such persons have been in continuous possession and enjoyment of the lands.

(2) The Revenue Divisional Officer/District Revenue Officers/Collector may grant patta of such application after the usual enquiry and after satisfying himself that the applicant has been in continuous possession and enjoyment of the land.

(3) The extent of the land for which patta is to be granted either by himself or together with the lands already held by the applicant shall not exceed the ceiling limit fixed under the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961, as modified by the



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Tamil Nadu Land Reforms (Reduction of Ceiling on land) Act, 1970.

(4) In cases where there are rival claims for the grant of patta in respect of the same land, the authority concerned may, in appropriate cases direct the portion to obtain a declaration from the Civil Court that they have been in continuous possession and enjoyment of the lands.

(5) In respect of cases whose land has been classified during settlement as communal poromboke but on ground, it has been converted as dry or wet filed and the applicant has been in continuous possession and enjoyment of the land, the appropriate authority may grant patta in respect of such land after following the prescribed procedure for changing the classification of the land.

(6) Consulalion with the settlement authorities before the grant of patta will not be necessary unless the Revenue Divisional Officer/District Revenue Officer/Coilector is of the view that the matter on such required scrutiny from the settlement point of view.

(7) No market value of the land shall be collected for the grant of patta under these orders.

(8) Adequate publicity in the village and its neighbourhood shall be given by the appropriate authority about the proposal to grant patta under these orders.

(9) The orders of the Revenue Divisional Officer/Collector as the case may be granted or refusing to grant patta are subject to revision by the Board of Revenue (Settlement of Estates) Madras either suo



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motu or on application to be filed within sixty days of services of the order. The Board of Revenue (Settlement of Estates) Madras is requested to issue suitable instructions for the proper implementation of these orders to their subordinate authorities.

sd/-

Secretary to Government.

As per the above said Government Order, either the the sixth respondent or his predecessor had not in continuous possession on the date of issuance of Government Order and as already stated, the land was transferred to the Highways Department in the year 1959 itself, as per G.O.Ms.No.2454, Revenue dated 26.08.1959 and the land is in possession of the Highways Department and it is compounded by the Highways Department.

22. It is also to be mentioned that earlier, the Settlement Officer has power to entertain the application for granting ryoatwari patta, by condoning the delay, which has been filed under Section 11(a) of the Tamil Nadu Estates (Abolition and conversion into Ryotwari) Act, 1948. Subsequently, as per the order of the High Court in W.P.No.2232 of 1968 dated 05.01.1970, it was decided that the Settlement Officer has no power to



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entertain the application for condoning the delay. Thereafter, as per the order of this Court in W.A.No.98 of 1971, rules were amended and Government had passed G.O.No.714, Commercial Taxes and Religious Endowment department dated 29.06.1987, granting one month time i.e. on or before 29.07.1987 to submit application, revision or appeal and beyond that time, neither the Director of Survey and Settlement nor the Commissioner of Land Administration has powers to condone the delay for grant of patta under the provisions of the Act XXVI of 1948. Further, as per the above G.O., even if the predecessors of the claimant or the claimant has any rights over the lands, now claimed by him, he should have applied before the Settlement Authorities on or before 20.08.1987.

23. It is an admitted fact that, after passing order by the Board of Revenue (Settlement of Estates) dated 31.12.1975, either Manali Ramakrishnan or his son Manali R.Srinivasan had not filed any application before the date 20.08.1987 claiming patta, whereas, Manali R.Srinivasan/sixth respondent had filed an application only on 23.12.2003, after a lapse of 16 years, which cannot be entertained by the Settlement Officer, as the



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claim was barred by limitation. At this juncture, it is to be mentioned that the Writ Court in its judgment has observed as follows

“ though the petitioner had lost precious time,the right to seek the remedy of revision of the earlier orders which were admittedly based on wrong entries in the revenue records had arisen only the in the year 2000-2001 and the petitioner on coming to know about the same, had submitted his revision in the year 2003. Hence, it cannot be held that the petitioner is guilty of delay or laches at all. The petitioner had taken all the best efforts to safeguard his rights as per law”

However, in reply to the above observation, the Department has stated in the affidavit filed along with the appeal as follows.

The learned Judge has placed reliance on a proceedings of the Tahsildar dated 31.08.2000 and followed by the proceedings of the Assistant Settlement Officer, dated 30.11.2000, in which the authorities have communicated that “ the S.No.21 had been wrongly classified as poramboke and that it was not in use of the Highways Department proves that the S.No.21 is wrongly classified as poramboke” is a misconception that the said letters are the reports sent to the Collector of Madras. These report seems to be perpetrated by those officials to help the said claimants and the said reports are false and not supported by valid records. Further, there is no classification mistakes as alleged by the above officials, as the land was legally transferred to the highways Department as per G.O.Ms.No.2454, Revenue dated



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26.08.1959 and the officials have not enquired the Highways Department and that the same settlement Officer, Thanjavur/Assistant Settlement Officer, Truvannamalai (incharge) in his subsequent report in R.C.No.3567/20001-B1 dated 25.01.2001 has withdraw from his earlier stand and reported that the owner of the land is not ascertainable that the land in possession of the Highways Department and it is compounded by the Highways Department and therefore, the land should have been alienated to Highways Department as the registry shows that the land is registered as Government Poramboke Highways Department”

24. For the above said contentions raised in the affidavit of the appeal, admittedly, there is no response from the sixth respondent/ Manali R.Srinivasan and despite service was made, there was no representation on behalf of him. More over, the sixth respondent/ Manali R.Srinivasan himself admitted that, he is not in possession of the property and the documents produced by the Department clearly shows that the disputed land was already transferred to the Highways Department and it was compounded by them. Therefore, it is clear that the sixth respondent is not entitled for Ryatwari patta for the disputed land, as per Section 11 (A) of the Tamil Nadu Zamindar Estates Abolition and conversion into Ryatwari Act,



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1948, as it was barred by limitation and also, the earlier decision of the

Board of Revenue (Settlement of Estates) dated 31.12.1975 reached finality.

In view of the above discussion, we are of the view that the order passed by the learned single judge warrants interference and hence, the same is liable to be set aside.

25. Accordingly, the writ appeal in W.A.No.1122 of 2009 and the writ petition in W.P.No.715 of 2010 are dismissed. The Writ Appeal in W.A.No.2041 of 2010 is allowed and the order passed by the learned Single Judge in W.P.No.12425/2008 dated 29.04.2009 is set aside. Consequently, connected miscellaneous petitions are closed. No costs.

(D.K.K.J.)

(P.B.B.J.)

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To

1. The Secretary to Government,
Revenue Department, Secretariat,
Chennai 600 009.
2. The Special Commissioner and Commissioner
of Land Administration,
Chepauk, Chennai 600 005.
3. The Special Commissioner and Director of
Survey and Settlement Chepauk,
Chennai 600 005.
4. The Settlement Officer, Chepauk,
Chennai 600 005.
5. The Chief Engineer, Highways Department,
Chepauk, Chennai 600 005.



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D.KRISHNAKUMAR, J.

and

P. B.BALAJI, J.

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