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W.P.No.8600 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8600 of 2023

and

W.M.P.Nos.8769, 8770 and 8772 of 2023

- 1.Dr.R.Jayachandran
- 2.Kala Jayachandran
- 3.S.Gnanamurugan
- 4.Sameena Salman

... Petitioners

Vs.

- 1.The Commissioner of Land Administration,
Chepauk, Chennai – 600 005.
- 2.The Commissioner of Survey & Settlement,
Survey House, Chepauk,
Chennai – 600 005.
- 3.The Final Settlement Enquiry Tahsildar-II,
Chennai.
- 4.The Tahsildar,
Guindy Taluk, Chennai.
- 5.T.V.Krishnakumar
- 6.Dr.N.Premila
- 7.T.K.Premkumar
- 8.K.Madhavan
- 9.A.Sujatha

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent comprised in his proceedings under Ref.No.K1/1259133/2021 dated 18.10.2022 and quash the same as being arbitrary, illegal and contrary to the provisions of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948.

For Petitioners	: Mr.Rahul Balaji
For R1 to R4	: Mr.Ramanlaal, Additional Advocate General assisted by Mr.T.Arunkumar, Additional Government Pleader
For R5 to R7 & R9	: Mr.M.Balasubramanian
For R8	: Mr.V.G.Sureshkumar

ORDER

The Writ on hand has been instituted questioning the validity of the order dated 18.10.2022 issued by the 1st respondent / Commissioner of Land Administration.

2. The short facts are that Smt. Sakkubai Ammal and Pushpavathi Ammal jointly owned T.S.No.7, Block No.14 and also joint owners along with other properties comprised in various survey numbers, partition between sisters were effected through O.S.No.3257 of 1961 in the year



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1964. The Suit instituted in C.S.No.535 of 1985 for declaration and compensation against the Tamil Nadu Housing Board was decreed in favour of the Pyamri Ammal in the year 1992. Accordingly, patta was granted by the Tahsildar, Mambalam, Guindy in respect of T.S.No.7/1 Block No.14, Zamin Adyar on 06.03.1992.

3. The purchasers from Sukkubai Ammal and Pushpavathi Ammal challenged the patta granted in favour of Pyari Ammal and the District Collector, Madras in Proceedings dated 13.10.1993 cancelled the patta issued in favour of the Pyari Ammal. However, the said Pyari Ammal did not challenge the said order passed by the District Collector, Chennai and the order reached finality.

4. As against the decree dated 10.01.1992 in C.S.No.535 of 1985, the Tamil Nadu Housing Board and Tamil Nadu Slum Clearance Board had filed a First Appeal in O.S.A.Nos.117 and 278 of 1992 and the same was allowed on merits, setting aside the decree obtained by Pyari Ammal in C.S.No.535 of 1985.



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5. The son of the deceased Pyari Ammal, Mr.Ahamed Sheriff challenged the order passed in O.S.A.No.117 and 278 of 1992 before the Hon'ble Supreme Court of India in SLP(Civil) Nos.8314 and 8315 of 2002, which were dismissed on 12.07.2002.

6. Subsequently, Mr.Ahamed Sheriff filed a Writ Petition in W.P.No.8109 of 2011 alleging that her mother filed a petition dated 11.04.1994 after a lapse of about 35 years to set aside the order of the settlement Tahsidlar passed in the year 1959.

7. The Commissioner of Survey and Settlement, Chennai passed an order in proceedings dated 28.09.2011 stating as follows:-

“ I have carefully examined the arguments and the connected records after affording of opportunity of hearing to both sides. It is found that the respondents had already sold the entire extent of lands comprised in T.S.No.7 of Block No.14 to Mr.M.A.Chidambaram Chettiar under sale deed dated 06.04.1957. Subsequently after disposing the above lands the applicants submitted



application for the same land and obtained ryotwari patta in S.R.No.6/Block14/AD/58 dated 15.01.1959 of FSE Tahsildar-II, Madras. Therefore, the order of Settlement Tahsildar is liable to be cancelled. But it is considered that after a period of more than 50 years, the action of cancelling the ryotwari patta issued by the Settlement Tahsildar will create severe law and order problems. Therefore, it is decided to issue ryotwari patta only to the lands remained vacant at present and accordingly the powers with vested under Section 5(2) of the Tamilnadu Estates (Abolition and Conversion into Ryotwari) Act XXVI/1948, ryotwari patta is issued to the plots 7/2, 7/3, 7/6, 7/19, 7/29, 7/37 comprised in T.S.No.7 of Block No.14 situated at Adyar Village of Guindy-Mambalam Taluk in Chennai District in favour of Revision Petitioner.”

8. As against the order dated 28.09.2011 passed by the Commissioner of Survey and Settlement, Chennai, the respondents 5, 6 and 7 filed a Writ



Petition in W.P.No.2094 of 2012 and the Additional Advocate General appeared in that Writ Petition informed the Court that the Department itself ordered for *suo motu* revision against the impugned order passed by the Commissioner of Survey and Settlement, Chennai and the said *suo motu* revision will be disposed by affording opportunity to all the parties.

9. Tmt.Pyari Ammal and her son Mr. Ahmed filed a Civil Suit in O.S.No.3200 of 1997 against the respondents 5 and 7 and the Suit has been dismissed with costs.

10. The findings given by the Civil Court are that "there is no clinching documentary proof for the plaintiffs claim that they are enjoying the property all through. The plaintiff was not able to establish the identity of the property, possession followed by title. The said Suit is dismissed with costs on 24.01.2014."

11. The *suo motu* revision initiated by the Principal Secretary and the Commissioner of Land Administration was heard by affording opportunity to all the parties. Considering the documents available on record, the Commissioner of Land Administration rejected the claim of the writ



petitioners.

12. The conclusion arrived by the Commissioner of Land Administration is mainly on the ground that the notification was issued by the Government under the powers conferred in Section 67 of the Act, XXVI of 1948. As per the notification against the decision of the Settlement Authorities, the last date for filing appeal / revision was 20.08.1987 and subsequently, the power conferred was withdrawn.

13. The authorities have no power to condone the delay and entertain fresh applications after the cut-off date i.e., 20.08.1987. Therefore, any application submitted after the cut-off date i.e., 20.08.1987 seeking Ryotwari Patta cannot be entertained.

14. The Government issued G.O.Ms.No.1300, Revenue Department dated 30.04.1971 granting permission to the persons, whose claims have been rejected under the Act and those persons may apply for patta outside the scope of the Act or who failed to apply and get patta during the currency of Settlement to apply for patta outside the scope of the Act, if such persons have been in continuous possession and enjoyment of the lands. This window of opportunity came to an end with the issue of G.O.Ms.No.589,



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Commercial Taxes and Religious Endowment Department, dated 14.05.1975. If the beneficiary of the order of the Commissioner of Survey and Settlement, Chennai dated 28.09.2011 or his predecessors have any right over the land, they should have availed these opportunities provided under the Act. But in the present case, the petitioner has submitted applications after a lapse of more than 30 years, therefore, the Commissioner of Land Administration termed the delay as enormous, which cannot be condoned at all.

15. The Government in their G.O.Ms.No.741, CT & RE Department, dated 29.06.1987 had given ample opportunities to the affected persons to represent their cases by way of appeal / revision. The final opportunity was given in addition to provision for condonation of delay provided in the Act. However, the petitioners have not filed any appeal or revision within the cut-off date i.e. 20.08.1987.

16. The notification was upheld by the Hon'ble Division Bench of High Court of Madras in W.A.No.96 of 2015 dated 09.02.2016 and W.A.No.739 of 2019 dated 19.08.2021.



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17. It is brought to the notice of this Court even recently, the Division Bench of this Court in the a case of **Parvathi Ammal and others -vs- N.Adikesvan and others** reported in 2023 2 MLJ 746 stating as follows:-

“ 36. This Court had occasion to consider the question of limitation for claiming ryotwari patta. G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department dated 29.06.1987 empowers the Settlement Officer to entertain the revision petition if it is filed within 30 days after the extended period. The Assistant Settlement Officer has no power to entertain an application filed under Section 11(a) of the Act beyond the extended period. In this case, the revision petition is filed only in the year 1996 and hence, the Assistant Settlement Officer has not only rejected the revision petition on merits but also on the ground that such revision petition cannot be entertained after 40 years of the order granting ryotwari patta under Section 12 of the Act in favour of landholder. The appeal was rightly dismissed by the Assistant Settlement Officer as the same was not within the time prescribed for filing an appeal or revision. However, the Director of Survey and Settlement observed that the Settlement Officer is empowered to condone the delay beyond the period of 30 days as per



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the amended rules in terms of G.O.Ms.No.714 dated 29.06.1987. This itself is wrong.

*37. This Court in several decisions has considered the scope of G.O. Ms. No. 714 dated 29.06.1987. The cut off date for applying patta was not extended beyond 20.08.1987. The limitation cannot be extended beyond the period of 30 days from the date of publication of the Government order. Considering this aspect, a Division Bench of this Court vide judgment dated 19.08.2021 in W.A.No.739 of 2019 in the case of **B.Udhayan and others -vs- Special Commissioner and Commissioner of Land Administration, Chepauk, Chennai – 5 and others**, held as follows:-*

5. Even though there is no reasoning or finding given by the Learned Single Judge, it is evident from G.O.Ms.No.714, dated 29.06.1987 under Section 11(a) of the Act, the cut off date for applying ryotwari patta was fixed as 20.08.1987. Once the cut off date has been fixed, the appellants have got no right to apply for Ryotwari Patta that too on 04.12.1995 almost after a decade. In the name of condone delay, a petition has been filed and the 2nd respondent is said to have entertained the application regarding which



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the 2nd respondent lacks power. The appellants has got neither locus standi to file application for grant of ryotwari patta beyond 20.08.1987 not the authorities have power or jurisdiction to receive the application and grant ryotwari patta beyond G.O.Ms.No.714, dated 29.06.1987.”

18. Therefore, the Courts have consistently held that belated claim seeking Ryotwari Patta is not entertainable and the notification issued by the Government was upheld. Under those circumstances, the Principal Secretary and Commissioner of Revenue Administration held that the Commissioner of Survey and Settlement dated 28.09.2011 re-opening the settlement matter is irregular, unlawful and exceeding the jurisdiction in violation of the Government Order issued in G.O.Ms.No.741, CT & RE Department, dated 29.06.1987 .

19. The previous history, as narrated by the petitioner regarding their rights deserves no merit adjudication and need not be considered by this Court in view of the fact that the claim itself is hit by the delay and laches. No useful purpose would be served by adjudicating those facts raised between the parties, which is unconnected with the law laid down by the



Hon'ble Division Bench of this Court with reference to the period of limitation and right to claim Ryotwari Patta under the Act XXVI of 1948.

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20. The petitioner submitted application after 36 years of the order passed by the Commissioner of Survey and Settlement, re-opening the settled issue was also set aside by the Commissioner of Land Administration. The order and the reasoning given by the Commissioner of Land Administration in the impugned order is supported by the principles laid down by the Three Hon'ble Division Bench of this Court and that being the factum, the facts as narrated by the petitioners in the affidavit as well as in the rejoinder deserves no merit adjudication.

21. In view of the fact that the issues regarding the Ryotwari Patta was settled long back and the petitioners had not submitted any application before the Settlement Officer before the cut-off date ie., 20.08.1987, now the petitioners are estopped from re-opening the settled claim and accordingly, the order impugned passed by the Principal Secretary and Commissioner of Land Administration, Chennai in proceedings dated 18.10.2022 stands confirmed.



22. Accordingly, the Writ Petition stands dismissed. Consequently,
the connected Miscellaneous Petitions are closed. No costs.

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Index : Yes

Speaking order

Neutral Citation : Yes

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S.M.SUBRAMANIAM, J.

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