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W.P.Nos.27722 to 27731 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.27722 to 27731 of 2016

and

**W.M.P.Nos.23912, 23914, 23916, 23918, 23920, 23922,
23924, 23926, 23928 and 23930 of 2016**

W.P.No. 27722 of 2016

Thiruvavaduthurai Adheenam,
Through its Adheenakarthar,
Sri-La-Sri Ambalavana Pandara Sannithi,
Thiruvavaduthurai,
Kuthalam Taluk,
Nagapattinam District

... Petitioner

Vs.

- 1.The Commissioner,
Land Revenue,
Survey and Settlement,
Chepauk, Chennai – 600 005.
- 2.The Assistant Settlement Officer (South Incharge),
Office of the Director of Land Revenue,
Survey and Settlement,
Chepauk, Chennai – 600 005.
- 3.The Assistant Settlement Officer,
Office of the Survey and Settlement,
Collectorate, Madurai.

4.Mr.V.Sekar

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the order of the 2nd respondent dated 10.12.2015 passed in த.ப.எண்.239/2015(மறுவிசாரணை) த.நா.சட்டம் 26/63/சிவந்திபுரம்/(எ2) and quash the same.

- For Petitioner : Mr.K.P.Sanjeev Kumar
For M/s.Ojas Law Firm
(in all W.Ps)
- For R1 to R3 : Mr.D.Ravichander,
Special Government Pleader
(in all W.Ps)
- For R4 : Mr.I.Abraham
(in W.P.Nos.27723 and 27725 of 2016)
- For R4, R5 & R8 : Mr.I.Abraham
(in W.P.No.27731 of 2016)
- For R4 : No appearance
(in W.P.Nos.27724 and 27726 to 27730 of 2016)
- For R4 : Died – steps due
(in W.P.No.27722 of 2016)
- For R6, R7 to R9 : No appearance
(in W.P.No.27731 of 2016)



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COMMON ORDER

The Writ Petitions on hand are instituted questioning the validity of the order dated 10.12.2015 issued by the Assistant Settlement Officer.

2. The petitioner / Thiruvavaduthurai Adheenam filed all these Writ Petitions mainly on the ground that after the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (hereinafter referred to as “the Act” for short), they hold melwaram rights in respect of the properties given by way of Gift to the Aadheenam. The petitioner / Thiruvavaduthurai Adheenam is cultivating the land by engaging lessees, coolies, their men and agents. Thus, the petitioner / Thiruvavaduthurai Adheenam is entitled for kudiwaram rights under the provisions of the Act.

3. The learned counsel for the petitioner states that the petitioner has already submitted relevant original documents in SR1-592/AMB/79 relating to the subject properties in Ambasamudram Taluk (now Tenkasi District) to the Assistant Settlement Officer, Madurai in the year 1980 itself and they are claiming kudiwaram rights. The said office is now functioning in the office of the Directorate of Land Revenue, Chennai.



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4. Since all the original documents in SR1-592/AMB/79 pertaining to the properties for establishing the right of the petitioner had already been submitted to the office of the Assistant Settlement Officer, they are bound to conduct an enquiry and issue appropriate orders considering all the original documents and relevant evidences produced by them.

5. Counter claims are also set out by the individual persons, who all are now in occupation of certain portion of the property, as a tenant. The alleged tenants are claiming that they are entitled for kudiwaram rights, since they are in continuous cultivation of the subject properties. Since there is a counter claim set out by the contesting respondents in all these writ petitions, an enquiry with reference to the documents is eminent and warranted.

6. In such circumstances, the authorities are not expected to shift their responsibilities in conducting a detailed enquiry, since there are counter claims, which cannot be allowed to go on for an indefinite period. Such issues relating to the properties or claiming rights under the provisions of



the Act are to be decided as expeditiously as possible and the parties may not be in a position to cultivate the property or enjoy the same with a doubtful title or otherwise.

7. On earlier occasion, this Court passed orders in a batch of writ petitions in W.P.No.21718 of 2016 etc., batch, dated 26.06.2018, setting aside the order dated 10.12.2015 passed by the Assistant Settlement Officer (South-in-charge), Chennai, and the matter was remanded back to the file of Assistant Settlement Officer (South-in-charge), Chennai for fresh consideration and to pass final orders on merits and in accordance with law.

8. The Assistant Settlement Officer (South-in-charge), Chennai issued notice of enquiry asking the parties to submit their defences. However, the petitioner herein has challenged the said notice and on account of an interim stay granted by this Court, the enquiry proceedings are kept pending.

9. Regarding the provisions of the Act, the applications, if any, claiming Ryotwari Patta is to be submitted before the cut-off date fixed in this regard. The Government fixed the cut-off as 1987.

10. In the present case, the petitioner claims that they have submitted



the petitions and furnished all the original documents in the year 1980 itself.

The learned counsel for the petitioner states that the documents and the applications claiming Kudiwaram Rights and seeking Ryotwari Patta were submitted well within the period of limitation contemplated by the Government under the provisions of the Act.

11. Undoubtedly an elaborate enquiry is to be undertaken by the Assistant Settlement Officer and the parties are also expected to co-operate for an effective adjudication of disputes raised between the parties.

12. Under the provisions of the Act, the land absolutely vests with the Government and persons claiming Ryotwari Patta has to establish their right to get the same. Continuous possession, use and enjoyment with reference to the documents are to be established in the manner contemplated under the provisions of the Act. Therefore, the authorities competent are bound to conduct an elaborate enquiry by affording opportunity to all the parties and thereafter take a decision and pass orders, enabling the parties to redress their grievances.



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13. It is needless to state that the original documents in SR1-592/AMB/79 filed by the petitioners in the year 1980 along with their applications claiming Ryotwari Patta are all to be taken into consideration during the course of enquiry. The documents filed by other parties claiming rights are also to be taken into consideration for the purpose of deciding the issues.

14. Disputed issues of civil nature cannot be adjudicated in writ proceedings under Article 226 of the Constitution of India. Only if the facts are adjudicated effectively and findings are made by the competent authorities / appellate authorities, then alone the High Court would be in a position to exercise the powers of judicial review in an effective manner.

15. Thus, initial adjudication under the provisions of the Act is of paramount importance and the Assistant Settlement Office has to adjudicate the issues, without causing any undue delay, since the Tamil Nadu Act 26 of 1963 itself was enacted in the year 1963. Several years have lapsed after the enactment and the issues are still continuing in respect of larger extent of properties. Thus, the Assistant Settlement Officer / Settlement Officer, as



the case may be, are bound to expedite the enquiry proceedings in order to give quietus to the dispute arising from and out of the provisions of the Act.

16. Thus, the Assistant Settlement Officer, who is holding the jurisdiction over the issues relating to the subject properties is directed to proceed with the enquiry by affording opportunity to all the parties concerned by considering the documents, if any, filed by the parties and pass orders on merits and in accordance with law, as expeditiously as possible.

17. The respondents are directed not to grant unnecessary adjournments to the parties on flimsy grounds. Adjournments are to be granted only on genuine reasons and by recording the same. Any party attempting to prolong and protract the proceedings cannot be encouraged by the Assistant Settlement Officer and he is directed to ensure that the enquiry proceedings are concluded as expeditiously as possible and in a meaningful manner.



18. With these directions, these writ petitions stand disposed of.

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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