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W.A.Nos.271 & 272 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 26.09.2023

DELIVERED ON: 06.12.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.271 & 272 of 2014

W.A.No.271 of 2014

- 1.Tmt.Durab Zaman Begam
 - 2.Tmt.Karamat Zaman Begam (died)
 - 3.Thiru.Dosth Mohamed Sherif @ Kaja (died)
 - 4.Thiru.Hyder Sherif @ Aga (Died)
 - 5.Tmt.Humayun Zaman @ Hima
 - 6.Thiru.Basheer Ahamed @ Babu
 - 7.Mrs.Kaneez Fathima
 - 8.Thiru.Shameer Ali
 - 9.Ahmed Sherif
 - 10.Faritha Basha
 - 11.Aysha Sulathana
 - 12.Saidabanu
 - 13.Syed Ahamed
 - 14.Shamsath Begum
 - 15.Zarina Begum
 - 16.Ghouse Mohamed
- (Appellants 10 to 16 substituted as LR's of the deceased 2nd appellant, vide order dated 04.09.2023 in CMP.No.20385 of 2023)



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17. S.Kasim Sherif
18. Noorjahan Salim Basha
19. Mohaboob Sherif
20. Shamshath Begum
21. Ghouse Basha
22. Usman Sherif
23. S. Shreen
24. Rahaman Sherif
25. Rasul Sherif

(Appellants 17 to 25 substituted as LRS of the deceased 3rd appellant, vide order dated 04.09.2023 made in CMP.No.20385 of 2023)

26. Saida Hyder Sherif Sayyed
 27. Yasmin Shamim Saikh
 28. Kazim Ali
 29. Mehjabin Jamal Pasha
 30. Nazeen Imran Khan
 31. Ahmed Ali
- (Appellants 26 to 31 substituted as LR of the deceased 4th petitioner vide order dated 04.09.2023 in CMP.No.20385 of 2023)

32. Razia Sulthana
33. Shaheen Sulthana
34. Nasreen Sulthana
35. Parveen Sulthana
36. Ghousa Begum
36. Reshma
37. Shahtaj Sulthana
38. Maheenoor Fathima

.. Appellants

(Appellants 32 to 39 substituted as LR of the deceased 8th appellant, vide order dated 04.09.2023 made in CMP.No.20385 of 2023)



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Vs.

- 1.The Director,
The King Institute of Preventive
Medicine and Research,
Guindy, Chennai-600 032.
- 2.The Settlement Officer,
Chepauk, Chennai-600 005.
- 3.M/s.Chennai Metro Rail Ltd.,
Rep. by its Managing Director,
Door No.11/6, Seethammal Road,
Alwarpet, Chennai-18.

.. Respondents

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- 1.Mrs.Kaneez Fathima,
- 2.Tmt.Durab Zaman Begam
- 3.Thiru.Dosth Mohamed Sherif @ Kaja (died)
- 4.Thiru.Hyder Sherif @ Aga (Died)
- 5.Tmt.Humayun Zaman @ Hima
- 6.Thiru.Basheer Ahmed @ Babu
- 7.Thiru.Shameer Ali (died)
- 8.Ahmed Sherif
- 9.Tmt.Karamat Zaman Begam (died)
- 10.S.Kasim Sherif
- 11.Noorjahan Salim Basha
- 12.Mohaboob Sherif
- 13.Shamshath Begam
- 14.Ghouse Basha
- 15.Usman Sherif
- 16.S.Shreen
- 17.Rahaman Sherif
- 18.Rasul Sherif

(Appellants 10 to 18 substituted as LR's of the



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deceased 3rd appellant, vide order dated 04.09.2023
in CMP.No.20383 of 2023)

19.Saida Hyder Sherif Sayyed

20.Yasmin Shamim Shaikh

21.Kazim Ali

22.Mehjabin Jamal Pasha

23.Nazeen Imran Khan

24.Ahmed Ali

(Appellants 19 to 24 substituted as LR's of the
deceased 2nd appellant vide order dated 04.09.2023
in CMP.No.20383 of 2023)

25.Razia Sulthana

26.Shaheen Sulthana

27.Nasreen Sulthana

28.Parveen Sulthana

29.Ghousa Begum

30.Reshma

31.Shahtaj Sulthana

32.Maheenoor Fathima

(Appellants 25 to 32 substituted as LR's of the
deceased 7th appellant, vide order dated 04.09.2023
made in CMP.No.20283 of 2023)

33.Farith Basha

34.Aysha Sulthana

35.Saidabanu

36.Syed Ahamed

37.Shamsath Begum

38.Zarina Begum

39.Ghouse Mohamed

.. Appellants

(Appellants 33 to 39 substituted as LR's of the
deceased 9th appellant, vide order dated 04.09.2023
in CMP.No.20383 of 2023)



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Vs.

1.The Tahsildar,
Mambalam-Guindy Taluk,
Bharathidasan Salai, Chennai-600 078.

2.The Settlement Officer,
Chepauk, Chennai-600 005.

.. Respondents

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 24.01.2013 made in W.P.Nos.22054 of 2009 and 4110 of 2010.

For Appellant

both Writ Appeals : Mr.A.Kumanan Raja

For Respondents

: Mr.J.Ravindran,
Additional Advocate General
assisted by
Mrs.Geetha Thamaraiselvan,
Special Govt. Pleader for R1 and R2
in both W.As.
Mrs.Rita Chandrasekar for R3
in W.A.No.271 of 2014

COMMON JUDGMENT

D.KRISHNAKUMAR, J.

These writ appeals are filed challenging the order of the Writ Court dated 24.01.2023 made in W.P.Nos.22054 of 2009 and 4110 of 2010, allowing the writ petitions and setting aside the order of the Settlement Officer, Chennai dated 01.09.2008, in and by which the said officer has



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allowed the request of the appellants 1 to 9 for the grant of ryotwari patta, excepting the lands in which Government building are situated in terms of Section 15(1) read with Section 12(a)(1) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 [hereinafter referred as 'Act, 1948'] and also in respect of the lands mentioned in Schedule A of the said order.

2. Facts leading to the filing of this writ appeal are as under. For the sake of brevity, the array of parties in W.A.No.271 of 2014 is adopted.

2.1. W.P.No.22054 of 2009 has been filed by the Tahsildar, Mambalam-Guindy Taluk, Chennai and W.P.No.4110 of 2010 has been filed by Director, King Institute of Preventive Medicine and Research Guindy, Chennai-600 002, both challenging the ryotwari patta granted in favour of the appellants 1 to 9. It was averred in the said writ petitions as under:

(a) A perusal of the Town Survey Land Register reveals that the lands in T.S.No.1/B, Block 6 and T.S.No.2B Part, Block 9 of Adyar Village in favour of Tvl.Durab



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Zaman Begum and 8 others for which patta was granted, vide proceedings in Na.Ka.No.8924/03 dated 01.09.2008 has been classified as "Sarkar Poromboke" and the lands belongs to King Institute, Guindy.

(b) The Principal Secretary and Commissioner of Land Administration, vide letter dated 20.09.2008 has stated that the lands for which the Settlement Officer allowed ryotwari patta belong to various Government Institutes, namely The King Institute of Preventive Medicine, Dr.M.G.R.Medical University, TNPL, TNPCB etc., with whom lands are in active possession. Neither the Tahsildar, Mambalam-Guindy Taluk nor the King Institute, Guindy was given sufficient opportunity to prove the facts. Therefore, he stayed the orders of the Settlement Officer on the ground that it was taken for review under the inherent powers vested with the Commissioner of Land Administration under Section 7 of Act, 1948.

(c) As far as Adyar Zamin is concerned, the entire Estate was settled under the provisions of the Act and ryotwari patta was issued to the landholder/Ryot, whoever was in possession and actually cultivating the lands. The property in issue was classified as Government Poromboke, in possession of King Institute, as per the Settlement



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Records, which were concluded 60 years back.

(d) The Settlement Officer ordered to issue patta for an extent of 5 cawnies, 11 grounds, 775 Sq.Ft. in T.S.No.1B, Block No.6 and 2 Cawnies, 5 Grounds, 1200 Sq.Ft. in T.S.No.2B/Part, Block No.9 of Adyar Village, Mambalam-Guindy Taluk in favour of Tmt.Durab Zaman Begam and 8 others stands registered in the Taluk Survey Land records was classified as Sarkar Poromboke in the name of King Institute,.

(e) Adyar Zamin Village have already been settled and ryotwari settlement have already been introduced in the village of Adyar Zamin about 49 years back as per the orders of the Government in G.O.Ms.No.714, Commercial Tax and Religious Endowment Department dated 29.06.1987.

(f) The Settlement Officer has not taken into consideration as to whether the application for issuance of ryotwari patta was filed within the cut-off time prescribed as per G.O.Ms.No.714 dated 29.06.1987.

(g) As far as entertainment of application for Ryotwari Patta under Act, 1948 is concerned, 20.08.1987 is



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the cut off date for making an application as per G.O.Ms.No.714 dated 29.06.1987.

(h) The Settlement Officer has no jurisdiction to entertain the application for ryotwari patta, especially when the lands in question has been classified as Government Poromboke Land and the said classification has not been challenged. The Settlement Officer has no jurisdiction to entertain the application, since the Assistant Settlement Officer alone is the competent authority to issue ryotwari patta.

(i) The respondents 1 to 9 / appellants 1 to 9 herein were never in possession of the lands and the Settlement Officer has showed undue haste and unwarranted interest in disposing of the application in favour of the appellants 1 to 9, without appreciating the fact that the property in issue is valued more than Rs.400 Crores.

2.2. Counter affidavit has been filed by the first respondent therein / first appellant herein refuting the averments made in the writ petitions



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and took the following stand:

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(a) The property in question continues to be vacant lands, in possession of the respondents 1 to 9/appellants 1 to 9 herein through their watch and ward staff, who were looking after the lands continuously from the time of their ancestors for 70 to 80 years and the Adyar and Alandur Zamin Villages were notified in the year 1959 under the Act, 1948.

(b) During settlement proceedings under Act, 1948, ryotwari pattas were issued to various claimants in possession of various pieces and parcels of land. The revenue authorities failed to enquire about the possession of the lands in question on the ground that they were not able to trace the claimants and the revenue authorities classified the lands as poromboke lands and recorded the same in the name of King Institute.

(c) From the year 1986, the legal heirs of Haji Ahmed Ali, namely Mrs.Kaneez Fathima / first respondent therein has been making applications to the revenue authorities, however without knowing the procedure to be adopted under Act, 1948.

(d) In the year 2001, for the first time through one Mr.Bojarajan, the heirs of Haji Ahmed Ali took proceedings



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before the Settlement Officer for correction of revenue records instead of seeking ryotwari patta. It was not realized that the remedy open to the heirs of Haji Ahmed Ali was only to seek Ryotwari Patta under Section 12 of Act, 1948. Accordingly, the original petition for correction of revenue records as amended as one for claiming Ryotwari Patta in the year 2007. After such an amendment, the enquiry before the Settlement Officer proceeded afresh, after due notice to King Institute and the Tahsildar, Guindy-Mambalam Taluk.

(e) Several opportunities were granted to King Institute, who are making a rival claim against the respondents 1 to 9 / appellants 1 to 9 and they were not able to produce any evidence. After providing several opportunities, the Settlement Officer held that King Institute/first respondent herein did not have any proof in their possession to ascertain their claim and held that the respondents 1 to 9 / appellants as the heirs of Zamindar, Haji Ahmed Ali are entitled for ryotwari patta for the reference lands and prayed for dismissal of the writ petitions.

2.3. The Writ Court, taking into consideration the facts and circumstances of the case and the rival submissions, has allowed both the



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writ petitions with cost of Rs.25,000/- to be paid by the respondents 1 to 9 therein / appellants 1 to 9 to the Director of King Institute of Preventive Medicine and Research, Guindy, within a period of eight weeks. Challenging the order of the writ Court, the respondents therein had filed the instant writ appeals.

3. Mr.A.Kumanan Raja, learned counsel appearing for the appellants would contend that the learned Judge ought to have taken into account the registered Settlement Deeds dated 25.09.1937 and 16.07.1948 bearing Doc.No.1377 / 1948 to held the order passed by the Settlement Officer is valid as per the provisions of Act, 1948 and there is no reference or discussion on these overwhelming documents relied on by the appellants in the impugned order. It is further contended that even according to Government records, the villages of Alandur and Adyar have already been taken over under Act, 1948 by G.O.Ms.No.3157, Revenue Department dated 09.12.1950, by no stretch of imagination, the lands in these two villages can be construed as Government Poromboke lands. It is also contended by the learned counsel for the appellants that the orders passed by the Settlement Officer under Section 12 and 15 are amenable



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to revision under Section 5(2) of the Act and further revision to Commissioner of Land Administration under Section 7, which was originally the Board of Revenue. These two provisions also pre-supposes that the documents produced, analysed and considered by the Settlement Officer are valid and correct and the validity of these documents cannot be gone into or appreciated under Article 226 of the Constitution of India and prays for setting aside the order of the Writ Court.

4. Mr.J.Ravindran, learned Additional Advocate General appearing for the first respondent would contend that as per notification published under Section 1(4) of Act, 1948, with effect from 03.01.1951, vide G.O.No.3157, Revenue Department dated 09.12.1950, the whole Zamin of Adyar was taken over by the Government and the settlement was introduced in the Fasli Year 1369 and as per the Town and Resettlement Register of Adyar Village, the subject lands in Block No.6, T.S.No.1 for an extent of 54.41 acres and Block No.9, S.No.2 for an extent of 15.76 acres have been registered as Government Poromboke by the then Assistant Settlement Officer of Chengalpattu in the name of King Institute and the subject land is under the possession of King Institute of



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Preventive Medicine and Research, Guindy / first respondent herein for more than 100 years. It is further contended that Adyar Zamin had already been settled and the ryotwari settlement had already been introduced in that village 49 years back and vide G.O.Ms.No.714, Commercial Taxes and Religious Endowments dated 29.06.1987, it has been ordered that fresh claims for ryotwari patta under the Act, 1948 shall not be entertained after 20.08.1987 and therefore, the order of the Settlement Officer dated 01.09.2008 is barred by limitation and the order of the Writ Court does not warrant any interference by this Court.

5. Heard Mrs.Rita Chandrasekar, learned counsel appearing for the third respondent and also perused the materials on record.

6. The point for consideration in these writ appeals are:

- (i) Whether the application submitted by the appellants under Section 11 of Act, 1948 seeking ryotwari patta is barred by limitation?
- (ii) Whether the Settlement Officer has jurisdiction to entertain the application for grant of ryotwari patta as per the provisions of Act, 1948?



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7. The following facts are not in dispute:

(i) The lands in question originally belongs to one G.M.Hasim Ali, who was a Zamindar of Alandur and Adyar villages.

(ii) G.M.Kasim Ali by way of deed of settlement dated 22.09.1937 settled the Zamindari rights of Alandur and Adyar villages in favour of his younger brother Haji Ahmed Ali Saheb.

(iii) Haji Ahmed Ali Saheb died on 07.11.1972. After the death of Haji Ahmed Ali, who died as a Bachelor, the legal heirs of G.M.Kasim Ali, the appellants 1 to 9 herein became the legal heirs of the said Haji Ahmed Ali and entitled to the estate of Haji Ahmed Ali.

(iv) Alandur and Adyar Zamin Villages were notified in the year 1959 under Act, 1948. At the time of settlement proceedings, the revenue authorities classified the reference lands as Government Poromboke and recorded the same in the name of King Institute / first respondent herein.

(v) In the year 2001, for the first time through one Mr.Bojarajan, the heirs of Haji Ahmed Ali took proceedings before the Settlement Officer for correction of revenue records instead of seeking ryotwari patta.

(vi) The application for ryotwari patta came to be filed on



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8. According to the appellants, initially they approached the revenue authorities only for correction of revenue records, since the lands in question was classified as 'Sarkar Poromboke' and recorded in the name of Kind Institute/ first respondent herein and later on, they realised that the proper procedure was to apply for issue of ryotwari patta under Section 12 of Act, 1948, which they have done only in the year 2008. It is the contention of the appellants that their claim is not belated even as per G.O.Ms.No.714 dated 29.06.1987

9. The purpose of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, XXVI of 1948 is to abolish Zamindari and Inam tenure and to introduce uniform Ryotwari System in State. Against the decisions made under Section 11 of the said Act during the Final Settlement Enquiry, appeal can be preferred before the Assistant Settlement Officer, within 30 days from the date of such decision. However, the Government, vide G.O.Ms.No.1400, Commercial Taxes & Religious Endowment Departments dated 21.11.1975 amended the Rules framed in Act XXVI of 1948 to condone the delay and entertain the



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appeal. The Government, in exercise of powers conferred under Section 67(2)(d) of the Act, have amended the Rules framed under the Act by issuing a notification in G.O.Ms.No.714, Commercial Taxes & Religious Endowment Department dated 29.06.1987 in and by which the last date to apply for condonation of delay was fixed as 20.08.1987. Therefore, after 20.08.1987, the Assistant Settlement Officer or any other authority in the settlement hierarchy has no power to entertain appeal or application for ryotwari patta under Act, 1948.

Limitations on Settlement Authorities

10. Grant of ryotwari pattas to a ryot in respect of ryot land in an estate and to a landholder in respect of his private lands in such estate is dealt in Sections 11 to 15 of the Act, 1948. Section 11 deals with the grant of a ryotwari patta to a Ryot in ryoti land and Sections 12 to 14 deals with grant of a ryotwari patta to a landholder in respect of his private lands in Zamindari Estate, Inam Estate and Under Tenure Estate respectively.

11. The Government has extended the time-line for submitting the



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application and appeal for seeking ryotwari patta. Under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, XXVI of 1948, the appeal time was for 30 days either as per originally framed rules vide G.O.Ms.No.3190, Revenue dated 17.10.1955 with respect to Section 11 of the Act. The appeal time for the claims under Sections 12, 13 & 14 is three months before the Estate Abolition Tribunal / Principal Subordinate Court. This appeal time had been extended vide amended rules published in G.O.(Ms.)No.1400, Commercial Taxes and Religious Endowment Department dated 21.11.1975 and as per further amendment to the said Rules published in G.O.714, CT& RE Department dated 29.06.1987 for 30 days, the extended time ended on 20.08.1987.

12. In exercise of powers conferred under Section 67(2)(d) of the Act, 1948, the Government issued G.O.Ms.No.714, CT& RE Department dated 29.06.1987, in and by which the last date to apply for condonation of delay to get patta u/s.11(a) of the Act, 1948 was fixed as 20.08.1987. This Court in many judgments had upheld the limitation / cut-off date for entertaining the appeal/revision under Act, 1948 as prescribed in G.O.Ms.No.714, CT & RE Department dated 29.06.1987, more



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illustratively in W.A.No.739 of 2019 dated 19.08.2021 and in W.A.Nos.844, 845 and 1314 of 2011 dated 30.11.2022. Further in W.A.No.96 of 2015 dated 09.02.2016, a Division Bench of this Court has elaborately discussed the provisions of the Act, confirming the suo motu powers of the Commissioner of Land Administration under Section 7 of Act, 1948 and also the limitation prescribed under G.O.Ms.No.714, CT & RE Department dated 29.06.1987 and upheld the orders passed by the Commissioner of Land Administration rejecting the request made by various petitioners therein under the Act, as time barred, which was also validated by the Hon'ble Supreme Court of India in SLP(C) No.13454 of 2016 dated 13.05.2016.

13. Thus, in the light of the aforesaid decision of the Hon'ble Supreme Court, it is well settled that,

(I) Any application after 20.08.1987 for grant of patta is not to be entertained, and any order passed by any settlement authority granting patta is void ab-initio. This Court has held that such grant of pattas by settlement authority beyond limitation amounts to fraud and set aside such grants under the maxim 'fraud vitiates all



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proceedings'.

(II) Neither the Director of Survey and Settlement nor the Commissioner of Land Administration has powers to condone the delay and remand the case to the Assistant Settlement Officer / Settlement Officer for statutory enquiry and no settlement authority can entertain such applications.

14. Be that as it may, now coming to the case on hand, the impugned order herein came to be passed on the representations submitted by the appellant - Mrs.Kaneez Fathima, dated 12.02.2002, which was purported to have been filed seeking for ryotwari patta in terms of Section 12 read with Section 15(1) of Act, 1948. Admittedly the application for grant of ryotwari patta was filed only on 12.02.2002, i.e., beyond the cut off date prescribed in G.O.Ms.No.714, CT & RE Department dated 29.06.1987 i.e., 20.08.1987. Therefore, this Court has no hesitation to hold that the application filed by the appellants 1 to 9 is barred by limitation.

Conduct of the Settlement Officer:

15. The Settlement Officer, in the impugned order dated



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01.09.2008, has stated that if any person is aggrieved by the said order, an appeal can be preferred before the Inam Abolition Tribunal within 90 days. But aggrieved by the wholesome handing over of the land, a suo motu review was taken up by the Commissioner of Land Administration read with Section 7 of Act, 1948. The Commissioner of Land Administration, vide order dated 20.09.2008 had examined the orders of the Settlement Officer, Chennai in detail and *prima facie* found that the lands for which the Settlement Officer had granted ryotwari patta belonged to various Government Institutions like the King Institute of Preventive Medicine, TNPL, TNPCB etc., and therefore, stayed the orders of the Settlement Officer until further orders are passed in the review under the inherent powers vested with him under Section 7 of Act, 1948.

16. While that being so, the Principal Secretary to Government, Revenue Department has sent a letter to the State Government dated 16.09.2008 regarding the conduct of the Settlement Officer, Chennai and the necessity for taking suomotu revision of the order passed by the Settlement Officer. The Additional Chief Secretary to Government and



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the Director of Survey and Settlement sent a letter dated 24.09.2008 to the Principal Secretary to Government, Revenue Department, taking exception to the order passed by the Settlement Officer, held that the order was unlawful and without jurisdiction. It was also opined that the Director of Survey and Settlement cannot take up the matter under Section 5(2) of Act, 1948 for a suomotu enquiry and no stay order can be passed by the Government. On this background, the aggrieved authority namely the Tahsildar, Mambalam-Guindy Taluk and the Director of King Institute of Preventive Medicine, first respondent in both the writ appeals, have filed the aforesaid writ petitions.

17. Even before the Writ Court, it was brought to the notice of this Court that the Settlement Officer was placed under suspension under public interest, vide G.O.(2D)No.19, Public (Special-A) Department dated 26.02.2010. Subsequently, charges were framed under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules for her illegal exercise of power in terms of Act, 1948 and also causing huge monetary loss to the Government, approximately to the tune of Rs.200 Crores by grant of patta to private persons for the lands which were



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classified as Government Poromboke lands during the course of settlement proceedings, which were in possession and enjoyment of the Government for over 50 years. A criminal case was also registered against the Settlement Officer and since the said officer had reached the age of superannuation on 30.04.2010, the Government had issued orders in G.O.(2D)No.48, Public (Special.A) Department dated 30.04.2010 in terms of Fundamental Rules 56(1)(c) and retained her service in the department until the conclusion of disciplinary proceedings.

18. The events aforesated clearly proves the callous exercise of powers by the Settlement Officer. The Writ Court has taken into consideration the aforesaid facts in the impugned order.

Conduct of the parties

19. It is seen that the 7th appellant herein, namely Mrs.Kaneez Fathima has earlier approached this Court in W.P.No.34044 of 2003 seeking direction to consider the representation dated 12.02.2002 for rectification of error in the revenue records of the lands in question. This Court vide order dated 27.11.2003 had disposed of the said writ petition



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by directing the respondent to consider the representation in accordance with law after giving opportunities to the appellants. It could be seen that the said order is only for a direction to consider the said representation. However, curiously when the said order is under compliance, the fifth respondent, namely Mr.Humayun Zaman @ Huma had filed yet another writ petition being W.P.No.8764 of 2007, seeking for an identical prayer to consider the very same representation dated 12.02.2002 allegedly sent by her, without taking into consideration the delay aspect, which is also pending before the respondent consideration as per previous directions of this Court. The said writ petition was disposed of on 09.03.2007, by directing the respondent to consider the said representation within a stipulated time. Subsequently, the matter was being mentioned by the learned counsel for the fifth appellant/fifth respondent therein that too after a period of seven months and vide order dated 05.10.2002, very same order to consider the representation dated 12.02.2002 was obtained from this Court without reference to the delay in failing the said representation/application. Therefore, only on the strength of the subsequent directions issued, without having regard to the legal norms, the Settlement Officer has took up the matter



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notwithstanding the fact that she has no jurisdiction to enter such application.

20. The Writ Court a in the order under challenge has also referred to the decisions of the Hon'ble Supreme Court in ***C.Jacob v. Director of Geology and Mining, [(2008) 10 SCC 115], Union of India v. M.K.Sarkar [(2010) 2 SCC 59] and APSRTC v. G.Srinivas Reddy [(2006) 3 SCC 674]*** for the proposition that under the guise of giving direction to consider the representation, the Court cannot cannot revive the death or stale cause of action and rightly observed that *the directions contained in the order dated 05.10.2007 in W.P.No.8764 of 2007 ought not to have been granted, because this court could not have granted any direction to waive any limitation, if the statute otherwise prescribes limitation. No such power is vested on this court under Article 226 of the Constitution to get over the limitation since the proceedings initiated under the Tamil Nadu Act 26/1948 are statutory proceedings.* In the order, there was also no reference as to whether the lands in question were in the hands of the petitioners or the nature of the



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representation sent by them. Further, it is also curious to note that though there are nine contesting respondents, the first writ petition (W.P.No.34044 of 2003) was filed by the first respondent seeking for an identical prayer, i.e., to consider the representation, dated 12.2.2002 and that was disposed of by a final order dated 27.11.2003 stating that the authority must consider the said representation in accordance with law. It only means that the representation has to be considered in accordance with law, which includes any limitation prescribed under such statute. Thereafter, it is the 5th respondent who wanted to have the same representation, dated 12.02.2002 to be considered by the very same authority especially when an order was already passed on 09.03.2007. Knowing fully well that their representations are not likely to be considered in the absence of getting over the delay aspect, oral mentioning was made for waiving the limitation. It was also ordered by this court on 05.10.2007. The respondents could not have filed two writ petitions for the very same subject and thereafter also by oral mentioning can get the waiver of delay in considering their representation. But the earlier order will operate as a res judicata and hence the subsequent order is a void order.



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21. A reading of the impugned order will clearly show that an enquiry into the petition allegedly submitted by the respondents was begun on 12.01.2004, which correspondingly tallies with the earlier order passed by this court in W.P.No.34044 of 2003, dated 27.11.2003, wherein only a direction was given to consider their representation in accordance with law. Subsequently, the respondents must have been impressed by the 10th respondent about her inability in dealing with the representation in view of the long delay. Therefore, they have set up the 5th respondent to file a writ petition on the very same issue. Though the second writ petition (W.P.No.8764 of 2007) came to be filed for the very same relief, once again this court on 09.03.2007 merely directed the respondent to pass an order in accordance with law. At that time, the 5th respondent brought to the notice of the court that the 10th respondent has also taken the case on file in reference No.8924 of 2003 as reflected in the prayer of the writ petition. But, after 7 months after the said order, it is curious that they have mentioned the matter before the court to get over the limitation, so that they can get a favourable order from the 10th respondent. This was what precisely happened in the present case. The



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above said acts clearly shows the foul play played by the parties before this Court in getting over the limitation prescribed under G.O.Ms.No.714 dated 29.06.1987 in submitting the application for grant of ryotwari patta and the private respondents have indulged in an unhealthy practice in getting their representation considered in their favour.

22. In the light of the fact that the appellants 1 to 9 have not filed the application seeking for ryotwari patta within the cut off date prescribed as per G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department dated 29.06.1987 and the foul play played by the appellants 1 to 9 to get over the delay in filing such application as extracted above, this Court can safely come to the conclusion that the application filed by the appellants is barred by limitation and on that ground, the order dated 01.09.2008 passed by the Settlement Officer, Chennai-5 is liable to be set aside.

Jurisdiction of the Settlement Officer to entertain the application for ryotwari patta

23. As regards jurisdiction of the Settlement Officer to entertain the



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application for ryotwari patta is concerned, the Settlement Officer failed to see that she had no jurisdiction to entertain the application, especially when during the settlement the land has been classified as Government poramboke and the said classification has not been challenged. The Settlement Officer had shown undue haste and unwarranted interest in disposing of the applications made by the private respondents. She had not gone into the veracity of the claim made by the private respondents that they were the legal heirs of the erstwhile Zamindar. Therefore, the burden of proof heavily lies on the person who claimed the relief. It is further stated that the lands were covered under the Adyar Zamin and stood vested with the Government absolutely after the notification of the Act in G.O.Ms.No.3157, Revenue Department, dated 09.12.1959. It was further submitted that the claim of ryotwari patta under the [Tamil Nadu Act 26/1948](#) is clearly time barred. The lands for which pattas were sought to be given, i.e., over 56 acres are in continuous possession of King Institute for over 100 years. Since the lands were already classified as Sarkar Poramboke, they ought to have challenged the same by way of an appeal in respect of the land classification only before the Tribunal and no power is vested with the settlement officer to deal with the said



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issue. It is clearly seen that the appellants 1 to 9 not only went before the 10th respondent, but they have also attempted to make dubious proceedings even before this court as already noted.

24. It is crystal clear that in order to overcome the delay in filing the application for ryotwari patta, the appellants had obtained favourable orders from this Court in W.P.Nos.8764/2007 under the guise to consider the representation without reference to the period of limitation, for which they had made the 5th appellant to file the aforesaid writ petition and based on such order of the Writ Court, the Settlement Officer has construed the representation of the petitioner dated 12.02.2002 as the application for ryotwari patta, despite knowing the fact that he has no jurisdiction to entertain the said application. The appellants have failed to produce any substantive material to get over the findings of the Writ Court and this Court finds no reason to interfere with the order of the Writ Courts and these writ appeals are liable to be dismissed.



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25. In the light of the reasons assigned above, these writ appeals are dismissed, confirming the common order dated 24.01.2013 made in W.P.Nos.22054 of 2009 and 4110 of 2010. No costs.

[D.K.K., J.] [P.B.B., J.]
06.12 .2023

Index :yes

Internet:yes

Jvm

To

1.The Director,
The King Institute of Preventive Medicine and Research,
Guindy, Chennai-600 032.

2.The Settlement Officer,
Chepauk, Chennai-600 005.

3.The Managing Director,
M/s.Chennai Metro Rail Ltd.,
Door No.11/6, Seethammal Road,
Alwarpet, Chennai-18.

D.KRISHNAKUMAR, J.,



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&
P.B.BALAJI, J.

Jvm

Common Judgment in
W.A.Nos.271 & 272 of 2014

06.12.2023