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W.P.No.34581 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : **23.01.2023**

Pronounced on : **27.09.2023**

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

**W.P.No.34581 of 2022
and W.M.P.No.34021 of 2022**

M/s. Mayajaal Entertainment Pvt., Ltd.,
Rep. by its Managing Director Mr.Udeep Bogollu
No.34/1, East Coast Road,
Kanathur Reddy Kuppam,
Chennai - 603 112.

..... Petitioner

Vs.

1. The Director of Land Survey and Settlement
Department Survey,
Rep. by its Director,
Chepauk,
Chennai - 600 005.

2. The Assistant Settlement Officer (North)
Office of the ASO,
Chennai - 600 005.

3. The Tahsildar
Office of the Thiruporur Tahsildar,
Thiruporur Taluk,
Chengalpattu District.

..... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a writ of certiorarified mandamus, calling for the records of the Impugned Suo Moto Revision Proceedings initiated by the first respondent herein emanating from the Enquiry Notice issued to the petitioner herein in its Proceedings No.E2/7588/2017, dated 29.01.2018 and quash the same and consequently direct the third respondent herein to mutate revenue records in favour of the petitioner herein, following the order of the second respondent dated 02.11.2011 in its Proceedings in SR No.07/2011 (E2/10552/2011)/Act XXVI/1948.

For Petitioner : Mr.A.L.Somayaji, Senior Counsel
for Mr.P.Dinesh Kumar

For Respondents : Mr.V.Arun, AAG
assisted by
Mr.R.Kumaravel, AGP

ORDER

This writ petition has been filed, seeking for a writ of certiorarified mandamus, calling for the records of the Impugned Suo Moto Revision Proceedings initiated by the first respondent herein emanating from the Enquiry Notice issued to the petitioner herein in its Proceedings No.E2/7588/2017, dated 29.01.2018 and quash the same and consequently direct the third respondent herein to mutate revenue records in favour of the petitioner herein, following the order of the second respondent dated



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02.11.2011 in its Proceedings in SR No.07/2011 (E2/10552/2011)/Act
XXVI/1948.

2. The necessary facts which are required to be noticed for the disposal of this writ petition are as follows :

2.1. The village called Kanathur Reddy Kuppam Village was taken over under the provisions of Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (in short “the Act”) by a Notification, dated 07.03.1957 vide G.O.Ms.No.630, Revenue, dated 09.02.1957.

2.2. Under the provisions of the Act, settlement proceedings were initiated in the year 1959. One of the land in the said village is in S.No.34 which consisting of 5.85 acres which has been sub-divided subsequently into 2 pieces, where S.No.34/1 was measuring to an extent of 3.85 acres and S.No.34/2 measuring to an extent of 2 acres.

2.3. In respect of the second part of the land, i.e., S.No.34/2 to an extent of 2 acres is concerned, on 05.05.2003, the petitioner had made an



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application to the District Collector, Chengalpattu District, seeking for grant of lease for a period of 30 years.

2.4. Pursuant to the said request made by the petitioner, the Tahsildar concerned has also conducted an enquiry and forwarded a proposal for leasing the said land for a period of 20 years by fixing the annual rent at Rs.22,41,596/-. Thereafter the said proposal was returned by the Special Commissioner and Commissioner of Land Administration as it was defective, on 13.07.2009, the Tahsildar forwarded the revised proposal by fixing the annual rent at Rs.22,76,918/- to the Revenue Divisional Officer, Chengalpattu.

2.5. When that was the position, in respect of the said land, i.e., S.No.34/2 to the extent of 2 acres in Kanathur Reddy Kuppam Village (herein after would be called as “the subject land”), all of the sudden, the petitioner in the year 2011, had claimed that, it has purchased the subject land from the predecessor in title and therefore, on 26.07.2011, the petitioner made representation to the Assistant Settlement Officer, i.e., the



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second respondent herein for grant of patta in respect of the subject land stating that, it had purchased the property in 1999 and claimed to have been in possession of the subject land for over 12 years.

2.6. The said request of the petitioner was rejected by the second respondent vide his proceedings, dated 03.08.2011, where the second respondent has stated the following :

"பார்வையில் கண்ட மனுவில் மனுதாரர் காஞ்சிபுரம் மாவட்டம் செங்கல்பட்டு வட்டம் கானாத்தூர் ரெட்டிகுப்பம் கிராமம் புல எண்34/2 வருவாய் கணக்குகளில் அனாதீனம் என உள்ளதை ரத்து செய்து தனது பெயரில் மனுதாரர் பட்டா வழங்கக்கோரியுள்ளார்.

2) கானாத்தூர் ரெட்டிகுப்பம் கிராமம் தமிழ்நாடு எஸ்டேட்ஸ் (ஒழிப்பும் மற்றும் ரயத்துவாரியாக மாற்றலும்) சட்டம் 26/48ன் கீழ் அரசால் எடுத்துக் கொள்ளப்பட்டு நிலவரித் திட்டம் மேற்கொள்ளப்பட்டது. மனுதாரர் பட்டா கோரும் புல எண்.34/2 நிலவரித் திட்டத்தின்போது அனாதீனம் என்று வைக்கப்பட்டுள்ளது. மேற்படி சட்டம்



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26/48ன் விதிகளுக்கு திருத்தம்
வெளியிடப்பட்ட அரசு ஆணை 714
Commercial Taxes and Religious Endowments
நாள் 29.6.87ன் படி 20.8.87க்கு பிறகு
காலங்கடந்த நிலையில் நிலவரித்திட்டத்தில்
மேற்கொள்ளப்பட்ட பதிவினை மாற்றி
வழங்கக்கோரும் மனுக்கள் மீது நடவடிக்கை
எடுக்க இயலாது என்ற விவரத்தினை
மனுதாரருக்கு இதன் மூலம்
தெரிவிக்கப்படுகிறது."

2.7. The petitioner challenging the said order, dated 03.08.2011 moved a writ petition in W.P.No.20999 of 2011, where mainly the ground urged on behalf of the petitioner was that before passing the said order, dated 03.08.2011, the second respondent had not given an opportunity of hearing to the petitioner. Therefore on the ground of violation of principles of natural justice, the writ petition was moved assailing the said order passed by the second respondent, dated 03.08.2011.

2.8. The said writ petition was allowed by a learned Single Judge of this Court, by order, dated 21.09.2011, where the learned Judge has passed



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the following order :

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" 4. A perusal of the impugned order and the materials on record would show that no notice was given to the petitioner by the first respondent. In view of the above submission and having regard to the facts and circumstances of the case and since the order impugned in this writ petition was passed without giving any opportunity of hearing to the petitioner, the impugned order passed by the first respondent is set aside and the matter is remitted to the first respondent to consider the application filed by the petitioner, afresh after giving an opportunity to the petitioner to sustain the contention taking note of the relevant rules and notifications including that of delay and pass fresh orders within a period of two (2) weeks from the date of receipt of a copy of this order. "

2.9. In pursuance of the said order passed by the single Judge as stated supra, in order to give such an opportunity to the petitioner, the second respondent had issued an enquiry notice on 19.10.2011 fixing the date of hearing as 28.10.2011.



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2.10. Thereafter on 02.11.2011, the second respondent passed an order allowing the Ryotwari patta to be given for the subject land to and in favour of the petitioner within the meaning of Section 11(a) of the Act.

2.11. On receipt of such order, dated 02.11.2011 from the second respondent, the petitioner had made a request to the third respondent on 06.04.2012 to mutate such issuance of Ryotwari patta in the village and taluk accounts. Since no orders had been passed by the third respondent on the said request of the petitioner, the petitioner had filed further writ petition in W.P.No.29465 of 2012 and the said writ petition was ordered by the learned single Judge of this Court by order, dated 02.11.2012, where the court passed the following order :

" 4. In view of the said submission, there is no legal impediment to pass an order in the application submitted by the petitioner seeking implementation of the order dated 2.11.2011. Hence, the second respondent is directed to implement the said order of the first respondent, as requested by the petitioner in its representation dated 6.4.2012, within a period of eight weeks



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from the date of receipt of a copy of this order."

The writ petition is disposed of with above observation. No costs.

2.12. Pursuant to the said order passed by the writ court as stated supra, on 08.05.2013, a request had been made to the third respondent to implement the order passed by this Court. Thereafter the third respondent by proceedings, dated 23.08.2013 had passed an order for issuance of patta in favour of the petitioner for the subject land. Accordingly, patta has been issued by the third respondent in Patta No.2436 to and in favour of the petitioner.

2.13. Thereafter, the petitioner had made further request to the third respondent to make necessary corrections in the village and taluk accounts as directed by the orders of the writ court earlier made in W.P.No.29465 of 2012. Such a request was made by the petitioner on 15.07.2015.

2.14. In order to consider the said request seeking a mandamus, again the petitioner approached this Court by filing another writ petition in



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W.P.No.25594 of 2015 and in the said writ petition, the learned Judge of this court by order, dated 10.09.2015 has given the following directions :

" 4. In such view of the matter, a direction is issued to the respondent to make necessary changes in the village and taluk accounts based on the representation of the petitioner dated 15.07.2014 and the earlier proceedings dated 23.08.2013 which has been passed in pursuant to the order passed by this Court in W.P.No.29465 of 2012, dated 02.11.2012 within a period of eight weeks from the date of receipt of a copy of this order."

2.15. As against the orders passed by the writ court in two separate writ petitions as stated supra, i.e., against the order passed in W.P.No.29645 of 2012, dated 02.11.2012 and the order passed in W.P.No.25594 of 2015, dated 10.09.2015, Writ Appeals in W.A.No.1059 of 2017 and W.A.No.809 of 2017 were preferred by the respondents and in those Writ Appeals, the Division Bench of this Court by order, dated 06.03.2018 has passed the following interim order :

" During the currency of this appeal, the Director of Survey and Settlement by notice, dated 29



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January, 2018 initiated suo moto proceedings in respect of the land which is the subject matter of the intra court appeal.

2. The learned senior counsel for the respondent fairly submitted that on receipt of the notice, the respondent entered appearance in the matter.

3. The learned Senior counsel for the respondent made a statement that the respondent would not seek implementation of the order dated 10 September 2015 in W.P.No.25592/2015. In view of the said undertaking, we are not staying the impugned order for the time being.

4. In view of the pendency of the matter before the Director of Survey and Settlement, let this appeal be kept pending till the disposal of the Suo moto proceedings."

2.16. In the meanwhile, the first respondent had issued an enquiry notice dated 29.01.2018 under Section 5(2) of the Act by invoking his suo motu power against the order of Ryotwari patta issued by the second respondent vide his order, dated 02.11.2011.



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2.17. On receipt of the said enquiry notice, dated 29.01.2018, the petitioner had filed a memo before the first respondent seeking furnishing of documents culminating to the initiation of the suo motu appeal.

2.18. As, according to the petitioner, since those documents had not been furnished, it had filed another writ petition in W.P.No.26157 of 2018 seeking for a writ of mandamus directing the first respondent to furnish all documents including the grounds of appeal in the suo motu appeal initiated by the first respondent.

2.19. In the said writ petition, an interim order has been sought for to stay all further proceedings in the suo motu appeal initiated by the first respondent against the petitioner in his Proceedings No.E2/7588/2017.

2.20. In the said writ petition, i.e., W.P.No.26157 of 2018, a learned Judge of this court by order, dated 04.10.2018 granted an interim order of stay and the said interim order has been extended until further orders by the learned Judge by subsequent order, dated 23.10.2018.



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2.21. Thereafter on 20.11.2018, the first respondent has furnished the document sought for by the petitioner, which according to the first respondent is the letter issued by the Additional Chief Secretary / Commissioner of Land Administration, dated 08.12.2017 addressed to the first respondent.

2.22. In the said letter, dated 08.12.2017, the Commissioner of Land Administration has advised the first respondent to review the orders passed by the Assistant Settlement Officer, i.e., the second respondent, dated 02.11.2011 by exercising the suo motu powers under Section 5(2) of the Act and to pass appropriate orders after following the due procedures immediately.

2.23. Subsequently, two Intra Court Appeals, i.e., W.A.Nos.809 and 1059 of 2017 filed by the respondents against the two orders separately passed by the learned single Judges of the writ court in the writ petitions filed by the petitioner as stated supra came to be decided by common order, dated 01.09.2022 of the First Bench of this court, where the Division Bench



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allowed both the Writ Appeals, thereby the orders passed by the writ court in the said two writ petitions have been set aside.

2.24. Subsequently, now the petitioner has chosen to file the present writ petition, challenging the enquiry notice, dated 29.01.2018 issued by the second respondent in the suo motu review proceedings under Section 5(2) of the Act. That is how, this writ petition has come up.

3. Heard the learned counsels appearing on either side.

4. Mr.A.L.Somayaji, learned Senior counsel assisted by Mr.P.Dinesh Kumar, learned counsel appearing for the petitioner has raised two points.

(i) Insofar as the suo motu power invoked by the first respondent under Section 5(2) of the Act is concerned, it must have been invoked by himself suo motu and not triggered by the direction or instruction given by the Commissioner of Land Administration through his proceedings, dated 08.12.2017.



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(ii) If at all the first respondent is empowered to invoke the suo motu power under Section 5(2) of the Act, even though there is no period of limitation prescribed within which such suo motu power is to be exercised, even then, the authority must invoke the suo motu power within a reasonable period of limitation as has been held by law courts in various Judgments and in this case, such a suo motu power has been invoked after 7 years, it is an inordinate delay and it cannot be construed as within the reasonable period, therefore on that ground, the invocation of suo motu power belatedly made by the first respondent through the impugned proceedings is liable to be interfered with.

5. In support of his contention, the learned Senior counsel appearing for the petitioner has relied upon the following decisions :

(i) Jagadish v. State of Karnataka and others, 2019 SCC Online SC 1901

(ii) Union of India and another v. Citi Bank, N.A., 2022 SCC Online SC 1973



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(iii) M/s. T.T.Ltd., v. Union of India & others, 2022-2-Writ L.R.492

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6. Per contra, Mr.V.Arun, learned Additional Advocate General assisted by Mr.R.Kumaravel, learned Additional Government Pleader would submit that, the petitioner himself has applied for a lease of the subject land in the year 2003 and the said request having been considered, the rental amount has been fixed, however, all of a sudden, in the year 2011, the petitioner has come forward to claim that, it had purchased the property in the year 1999 and since then, it had been in possession and enjoyment of the property, therefore it is not interested in the lease request made by him, hence he wants to withdraw the lease request and also sought for issuance of Ryotwari patta within the meaning of the Act. Therefore this contradictory stand has been taken by the petitioner himself and it is the petitioner's own case that, the land in question is not a Ryotwari land and it is Anadheenam land.

7. The learned Additional Advocate General would further submit that, insofar as the suo motu power to be invoked by the first respondent



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under Section 5(2) of the Act is concerned, since there has been no limitation prescribed, it cannot be stated that, the present invocation of the suo motu power by the first respondent is belated or delayed one. The seven years period cannot be said to be an inordinate delay or not within the reasonable period as has been held by the law courts. He would also submit that, the suo motu power exercised by the first respondent may be based on the advice given by the Commissioner of Land Administration vide his Proceedings, dated 08.12.2017. Such kind of advice can be given by the Commissioner of Land Administration who is exercising the power of the erstwhile Board of Revenue, therefore under Section 7(b) of the Act, the Commissioner is empowered to issue instruction for the guidance of the Director, District Collectors and Settlement Officers and managers of estates. Therefore what has been directed or advised by the letter of the Commissioner, dated 08.12.2017 can only be construed as instructions for the guidance of the Director. Therefore it cannot be stated that, pursuant to such instruction issued by the Commissioner, the first respondent cannot act upon invoking the suo motu power under Section 5(2) of the Act.



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8. He would also submit that, insofar as the claim that has been made by the petitioner to seek for Ryotwari patta under Section 11(a) of the Act is concerned, that kind of request ought to have been made as per G.O.Ms.No.174 before 20.08.1987, thereafter no such request could be made and it cannot be entertained.

9. In this case, neither the predecessor in title as claimed by the petitioner nor the petitioner had made any attempt to make the request seeking Ryotwari patta before the said cut off date and once the period is over, assuming that the claim made by the petitioner is to be considered on merits, that ought not to have been considered because of the lapse of time or barred by limitation.

10. In support of his contention, the learned Additional Advocate General has relied upon a Division Bench Judgment of this court reported in 2016-2-L.W.45 in the matter of Sundaram & others v. The Principal Secretary and Commissioner of Land Administration, Chepauk.



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11. I have given my anxious consideration to the rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

12. Insofar as the factual matrix of the case is concerned, even according to the petitioner, it has claimed that, the petitioner has purchased the property from the alleged predecessor in title in the year 1999. Originally according to the petitioner, it was purchased in the name of M/s. West Bank Garden Farm Clubs Private Limited, subsequently, the petitioner had registered and renamed its name as M/s. Mayajal Entertainment Private Limited.

13. If at all the petitioner purchased the property in 1999, the petitioner could have made application immediately after purchasing the property for getting patta from the Revenue authorities.

14. However, it is to be noted that, on 05.05.2003, the petitioner had made an application to the District Collector, Chengalpattu District, seeking



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for grant of lease for a period of 30 years. This action of the petitioner has clearly demonstrated that, it is with the knowledge of the petitioner that the subject land has already been categorised as Anadheenam in the early 50's after the said village has been taken over under the provisions of the Act and the settlement proceedings were initiated in the year 1959 where the entire property of S.No.34 consisting of 5.85 acres have been sub-divided into two and insofar as S.No.34/1 is concerned, Ryotwari patta was issued and for S.No.34/2 is concerned, since there was no Ryotwari claim, the land was declared to be an Anadheenam land under the provisions of the Act.

15. When that being the factual position, on what basis the petitioner claims or traces the title from various persons shown as the predecessor in title is not known.

16. That apart, on 05.05.2003, knowing well that the subject land is the Anadheenam land, the petitioner had made application to the District Collector, seeking the lease for 30 years, that process went on for some time and the rent has been fixed twice.



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17. When that being so, in the year 2011, the petitioner had come out with a case that, it is entitled for issuance of Ryotwari patta under the Act and when such an application was made, the second respondent vide his proceedings dated 03.08.2011, had rejected the same stating the two reasons that, first of all such an application could not be made after 20.08.1987 in view of G.O.No.714, secondly, the land has already been declared as an Anadheenam land under the provisions of the Act. Therefore on that ground also, such a Ryotwari patta cannot be asked for and accordingly, the application submitted in this regard by the petitioner was rejected by the second respondent on 03.08.2011.

18. The said order was set aside by the order of the writ court, dated 21.09.2011 in W.P.No.20999 of 2011, where the writ petition was ordered only on the ground of violation of principles of natural justice, where direction has been given to reconsider the issue including the plea with regard to the delay.



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19. However, the very same second respondent without considering the delay aspect and without considering the merits of the case in proper perspective, has passed an order on 02.11.2011, where he had given a finding that, even prior to the settlement survey under 1948 Act, the land in question was made as a Ryotwari land and therefore, the petitioner is entitled to get Ryotwari patta under Section 11(a) of the 1948 Act.

20. Thereafter, at least in two writ petitions, directions were obtained by the petitioner, first one is in W.P.No.29465 of 2012, dated 02.11.2012 and the second one is in W.P.No.25594 of 2015, dated 10.09.2015. Both these orders were appealed by the respondents in the Writ Appeals in W.A.Nos.1059 and 809 of 2017 and both the writ appeals were allowed by a Division Bench of this Court, by order, dated 01.09.2022. Therefore the issuance of consequential order of patta by the third respondent, Tahsildar has become otiose.

21. These factors had come to the notice of the Commissioner of Land Administration, immediately, he by his letter, dated 08.12.2017 had



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instructed the first respondent to review the order passed by the second respondent vide his proceedings, dated 02.11.2011 by invoking the suo motu powers under section 5(2) of the Act.

22. Thereafter only since it has been brought to the notice of the first respondent, he has invoked the suo motu power and issued notice for hearing, dated 29.01.2018.

23. The said 29.01.2018 enquiry notice now has been challenged in the present writ petition. In the meanwhile, the petitioner also filed another writ petition in W.P.No.26157 of 2018, where the prayer was to seek for a mandamus directing the first respondent to furnish all documents including the grounds of appeal in the suo moto appeal initiated by the first respondent, where an interim order of stay was sought for all further proceedings against the suo motu proceedings and that interim order also has been granted, which has also been subsequently extended.



24. However, it is to be noted that, once the intra court appeals filed by the respondents since have been allowed, the import of the said order passed by the Division Bench, certainly will have a bearing and therefore it is to be noticed. The Division Bench, after having traced the factual matrix has passed the following order :

" 20.We have considered the arguments made by the learned counsel for both the parties.

21.This is a classic case where the respondent herein and the officers who were officiating the 1st and 2nd respondent had successfully made this Court a fait accompli. Fortunately, some one somewhere in the executive had woken up which had put a brake so that the damage that has been caused could be reversed.

22.It is an admitted case that Kannathur Reddikuppam Village was taken over under the Act, 1948 and settlement proceedings were initiated in the year 1959. It is also an admitted case that during the settlement proceedings, S.No.34/1 was issued with a Ryotwari Patta in the name of one Munivar Khan Shaib and another. The land in S.No.34/2 was declared as Anadheenam. Till the year 2011, no one had approached the Authorities for grant of Ryotwari Patta. Even the respondent in the year 2003, had only sought for lease of the land in S.No.34/2. A turn



around has been made by the respondent seeking for a grant of Patta in his name by representation dated 26.07.2011. There was no reference of any proceedings in the Act, 1948. It had simply stated that it had purchased the property in the year 1999 and has been in possession of the land for over 12 years. Even though, originally the officer holding the office of Assistant Settlement Officer had rejected the application as it is bared by time, in the view of G.O.Ms.No.714, Commercial Taxes Religious Endowment Department dated 29.06.1987, however after remand made by this Court in W.P.No.20999 of 2011, had directed granting of patta as per provisions of Section 11(a) of the Act, 1948. It is now pertinent to look at the directions issued by this Court which enabled the said Authority to pass order.

“4.A perusal of the impugned order and the materials on record would show that no notice was given to the petitioner by the first respondent. In view of the above submission and having regard to the facts and circumstances of the case and since the order impugned in this Writ Petition was passed without giving any opportunity of hearing to the petitioner, the impugned order passed by the first respondent is set aside and the matter is remitted to the first respondent to consider the



application filed by the petitioner, afresh after giving an opportunity to the petitioner, to sustain the contention taking note of the relevant rules and notifications including that of delay and pass fresh orders within a period of two weeks from the date of receipt of a copy of this order.”

23.The Authority in clear terms has disregarded the orders passed by this Court. This Court had directed to pass fresh orders after giving an opportunity taking note of the relevant rules and notification including that of delay. Even though, originally he had rejected the application on the ground of delay, there is not even an iota of discussion on the maintainability of the said application on the grounds of delay.

24.Again the Officer holding the Office of the 2 nd respondent initially, pursuant to the directions issued by this Court in W.P.No.29465 of 2012 had directed the respondent to approach the Collector or Principal Secretary Cum Commissioner Land Administration, pursuant to the order of the later that without getting instructions from the said Authority no orders passed by the Assistant Settlement Officer/ Settlement Officer/ Direction of Survey and Settlement should be implemented. But, however, by a further order dated 23.08.2013 relied upon the opinion issued by the learned Additional Advocate General, had issued Patta. It is pertinent to note that the opinion of the



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learned Additional Advocate General is dated 31.12.2012 much prior to the first order passed by the same Authority on 08.03.2013. If such an opinion was already available it is puzzling why the order dated 08.03.2013 was passed directing the respondent to approach the Collector or Principal Secretary Cum Commissioner Land Administration.

25. On 30.08.2013, computer entries were also made in the Patta reflecting the name of the respondent in respect of S.No.34/2. The same has been withdrawn after the charge memo was served on the said Officer. The conduct of the Officers who were holding the posts of the 1st and 2nd appellant creates doubt on their integrity and we are not willing to make any comments on the same as it has been pointed out by learned Additional Advocate General that disciplinary proceedings have been initiated against them. Besides, it is an Anadheenam land as per the Revenue Records produced before us. Secondly, all along the respondent had been making requests time and again to grant lease of the land in question. Thirdly, when the Revenue Department accepting the request for grant of lease, the Tahsildar had painstakingly, arrived at the lease amount based on the prevailing market rate. When a sum of Rs.22,76,918/- (Rupees Twenty Two Lakhs Seventy Six Thousand Nine Hundred and Eighteen only) had been fixed as the lease rent, suddenly, taking a somersault that the land in



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question belongs to the respondent belies his own claim that the land belongs to the respondent, because, till date no suit has been filed for declaration of his title when there is a huge title dispute pending between the parties.

26. In view of the fact that the computer entry regarding the Patta has been removed, it is clear that the order of this Court dated 02.11.2012 has not been fully implemented. Hence, we do not accept the contentions of the learned counsel for respondent that the said Writ Petition had become infructuous. As the Director of Survey and Settlement had already initiated Suo Motu proceedings to review the order passed by the 1st appellant dated 02.11.2011 in his notice dated 03.08.2018, the directions issued by this Court in W.P.No.29465 of 2012 and W.P.No.25594 of 2015 need not be complied with, for the reasons that if the order passed by the 1st appellant dated 02.11.2011 is reviewed, then the direction dated 02.11.2012 passed by the learned Single Judge, at any stretch of imagination cannot be complied with.

27. For all the reasons stated above, both the Writ Appeals are allowed and the directions issued by this Court in W.P.No.25594 of 2015 and W.P.No.29465 of 2012, dated 10.09.2015 and 02.11.2012 are set aside. However, no order as to costs. Consequently, connected miscellaneous petitions are closed."



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25. The Division Bench has held that, it is a classic case, where the petitioner herein who was the respondent in the appeals and the officials who were officiating the second and third respondent herein who were the first and second appellant had successfully made the court a *fiat accompli*. It has further been held by the Division Bench that, fortunately some one somewhere in the executive had woken up which had put a brake so that the damage that has been caused could be reversed.

26. The Division Bench Judgment will speak for itself as to why the two orders passed by the writ court in two separate writ petitions giving directions in favour of the writ petitioner had to be set aside.

27. Coming to the argument advanced by Mr.A.L.Somayaji, learned Senior counsel appearing for the petitioner in respect of his first argument that, the suo motu power can be invoked by the first respondent by himself and not by way of direction issued in this regard by the Commissioner of Land Administration.



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28. If we look at the relevant provisions of the Act, Section 5 reads

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" 5. Appointment and functions of Settlement Officer - (1) As soon as may be after passing this Act, the Government shall appoint one or more Settlement Officers to carry out the functions and duties assigned to them under this Act.

(2) Every Settlement Officer shall be subordinate to the Director and shall be guided by such lawful instructions as he may issue from time to time; and the Director shall also have power to cancel or revise any of the orders, acts, or proceedings of the Settlement Officer, other than those in respect of which an appeal lies to the Tribunal."

29. The Settlement Officer under Section 5(2) being subordinate to the Director, shall be guided by such a lawful instructions as the Director may issue from time to time and the Director shall also have the power to cancel or revise any of the orders, acts or proceedings of the Settlement Officer other than those in respect of which an appeal lies to the Tribunal.



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30. This power is pari materia of the power vested with the erstwhile Board of Revenue, presently the Commissioner of Land Administration under Section 7(c), which empowers the Commissioner of Land Administration to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies to the Tribunal or of any managers.

31. Such a power vested with the Director under Section 5(2) and with the Commissioner under Section 7(c) can very well be invoked at any point of time by the said authorities.

32. In the case in hand, it is the complaint of the learned Senior counsel appearing for the petitioner that, if at all the power of suo motu has to be invoked by the Director, i.e., the first respondent, it must have been invoked by himself and not triggered by the directive issued by the Commissioner.



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33. In this context, it is to be noted that, under Section 7(b) of the Act, the Board of Revenue then, presently the Commissioner of Revenue Administration shall have the power to issue instruction for the guidance of the Director, District Collectors, Settlement Officers and managers of estates. Therefore, the Commissioner of Land Administration is empowered to issue instruction to the Director for the guidance.

34. The said power vested with the Commissioner of Land Administration to issue instruction as an advise has exactly been exercised by the Commissioner of Land Administration vide his letter, dated 08.12.2017, as the operative portion of the said letter of the Commissioner of Land Administration, dated 08.12.2017 reads thus :

" 7. In these circumstances, under the powers conferred in section 7(b) of the Tamil Nadu Estate (Abolition & Conversion into Ryotwari) Act, XXVI of 1948, you are instructed to review the orders passed by the Assistant Settlement Officer (North) in his proceedings first cited by exercising suo--motu powers, under section 5(2) of the Tamil Nadu Estate (Abolition & Conversion into



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Ryotwari) Act, XXVI of 1948 and pass appropriate order after following due procedure, immediately. I request you to complete the proceedings early and inform to this office in order to safeguard valuable Government lands. The connected file of the Assistant Settlement Officer (North), judgments of the Hon'ble High Court of Madras and copy of letter received from the Learned Advocate General are sent herewith. I request you to acknowledge the receipt of this letter and its enclosures immediately."

35. The Land commissioner invoking Section 7(b) of the Act, had instructed the Director to review the order passed by the Assistant Settlement Officer vide his proceedings, dated 02.11.2011, by exercising the the suo motu power under Section 5(2) of the Act.

36. Insofar as the suo motu power vested with any authority is concerned, it can be invoked by such authority, either on his own motion or triggered by any party including the aggrieved party. Merely because the aggrieved party has approached the authority to exercise the suo motu



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power or any other authority who triggered the authority to exercise the suo motu power vesting him under the provisions of the Act it cannot be said to be an exercise outside the scope of invocation of the suo motu power.

37. If the arguments of the learned Senior counsel appearing for the petitioner that the suo motu power if at all to be invoked, it shall be invoked only by the authority which is empowered to exercise such suo motu power and not on the basis of instructions or guidance or directions of any other authority is accepted, such a suo motu power, in most of the time, might not have been invoked even for valid reasons for want of knowledge. Knowledge is an important aspect for any authority to invoke the suo motu power, unless the issue is brought to the notice of the authority or it comes to the notice of the authority by any means, the authority may not be in a position to know as to what happened to the particular issue, where his power of suo motu has to be invoked or not cannot be easily decided.

38. Therefore the said arguments advanced by the learned Senior counsel appearing for the petitioner that the suo motu power exercised by



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the first respondent Director is not under Section 5(2) of the Act and since the directive has been issued by the Commissioner that makes the action of the Director in invoking the suo motu power under Section 5(2) invalid cannot be countenanced.

39. The second argument that was advanced by the learned Senior counsel appearing for the petitioner was that, assuming that the first respondent has invoked the suo motu power, such power should have been invoked within the reasonable time or period.

40. In order to emphasize the said point, the learned Senior counsel has relied upon three decisions as referred to above.

41. Insofar as the first decision, i.e., **2019 SCC Online SC 1901 in the matter of Jagadish v. State of Karnataka and others** is concerned, in the said Judgment, it was held that, the power should have been exercised within a reasonable period of time and in that context, the period of 20 years being a long period for calling for interference by the concerned authorities



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and also factually the Court found it was 30 years period between the rights accrued and the exercise of rights and the lands have been in the meanwhile developed by the private respondents and who accordingly, is a bonafide purchaser and created infrastructure on the same.

42. Here in the case in hand, the Settlement Officer has passed the order in 2011 and the suo motu proceedings has been issued in 2018, therefore firstly it cannot be stated that it is a too longer period. Secondly, the petitioner cannot be construed as a bonafide purchaser prima facie, because in the year 2003 he made application, treating the subject land as Anadheenam land, to the District Collector to seek for a long term lease of 30 years. If at all he purchased the property in 1999, as a bonafide purchaser, he could have made attempt to get patta, however, he had chosen to seek lease of the subject land, for which, he has made application to the District Collector. Therefore, the petitioner neither be construed as a bonafide purchaser not the period of 7 years can be treated as a longer period to frustrate the suo motu powers to be exercised by the Director, i.e., the first respondent under Section 5(2) of the Act. Therefore, the said Judgment cannot be made applicable to the facts of the present case.



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43. In the next Judgment, i.e., **2022 SCC Online SC 1073, in the matter of Union of India and another v. Citi Bank, N.A.**, is concerned, the Court no doubt has held that, the authorities are required to initiate the proceedings within a reasonable period. Here as discussed above, the suo motu power has been exercised within a period of 7 years. Therefore it cannot be stated that, it has not been exercised within a reasonable period. Therefore, the said Judgment also would not advance the cause of the petitioner.

44. Almost similar view has been taken by the learned Judge in the third Judgment, i.e., **2002-2-Writ L.R.492 in the matter of M/s. T.T.Ltd., v. Union of India & Others** and the period within which now the suo motu power has been invoked by the authority concerned under Section 5(2) of the Act cannot be said to be beyond the reasonable period.

45. On the other hand, the Division Bench of this Court in **2016-2-L.W.45 in the matter of Sundaram & others v. The Principal Secretary and Commissioner of Land Administration, Chepauk**, as



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quoted by the learned Additional Advocate General appearing for the respondents, has held in unequivocal term that, insofar the limitation to claim Ryotwari patta under the Act since has been lapsed by virtue of G.O.Ms.No.714 by 20.08.1987 itself, beyond the said date, nothing could be made by making application to seek for Ryotwari patta. The said position has been held so in the said Judgment, where the relevant para reads thus :

"29.The State Government, subsequently, by several Government Orders, as referred to in G.O. Ms.No.1300, Revenue Department dated 30 April 1971, had permitted the landholders or the ryots, who could not obtain patta within the prescribed time under the provisions of the Act, to make an application for grant of patta in respect of such lands, provided they were in continuous possession and enjoyment of any land in the estate taken over under the Act. The said permission came to an end subsequently by G.O. Ms.No.714, which stipulated the last date as 20 August 1987. The appellants had never come forward under the aforestated provisions of the Act or under the extended time granted by several Government Orders, claiming to be in continuous possession



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and enjoyment of any land in the estate taken over under the Act.

30. As a sequitur, we have no hesitation in holding that the first respondent had rightly rejected the appellants' application as being barred by delay and that the learned Single Judge has justly dismissed the writ petition upholding the order passed by the first respondent."

46. That apart, almost similar issue had come up for consideration before a Full Bench of this Court reported in **2007-3-L.W.988 in the matter of The Special Commissioner and Director of Survey and Settlement Chepauk v. M.Arumugam**. There has been conflicting decisions by two Division Benches on the suo motu power of the Director under Section 5(2) of the Act, ultimately the matter has been referred for an authoritative pronouncement before a Full Bench, where, the Full Bench having considered this legal issue in detail, has held that, the power conferred on the Director under Section 5(2) of the Act to cancel or revise any of the orders, acts or proceedings of the Settlement Officer is very wide. The relevant portion of the order reads thus:



"6. On a bare reading of the provisions of Section 5(2) of the Act, it is clear that the power conferred on the Director by Section 5(2) to cancel or revise any of the orders, acts or proceedings of the Settlement Officer is very wide. In the first place, the Director need not necessarily be moved by any party in that behalf, and the power could be exercised either on an application by an aggrieved person or suo motu. For example, if the Director comes to know that contrary to the scheme of the Act or due to misrepresentation or fraud played, a patta had been granted to a person under the relevant provisions of the Act, then to set right that mistake, the Director should be enabled to exercise his power so as to effectuate the scheme of the Act and to implement the purpose behind the Act. The fact that the rule making authority has prescribed procedure in exercise of the powers under Section 67 for making an application to the Director does not mean that the suo motu power which is explicit in Section 5(2) of the Act is in any way curtailed or taken away. We are, therefore, unable to appreciate the contention of the respondent that making an application is sine qua non for invoking the power under Section 5(2) of the Act.

7. In *Ram Swarup v. Shikar Chand*, AIR 1966 SC 893, the Supreme Court while construing a similar provision contained in Section 7-F of the U.P Act 3 of 1947 observed as follows:



"Section 7-F provides for the revisional powers of the State Government in very wide terms. It reads thus:

"The State Government may call for the record of any case granting or refusing to grant permission for the filing of a suit for eviction referred to in S.3 or requiring any accommodation to be let or not to be let to any person under S.7 and may make such orders as appears to it necessary for the ends of justice."

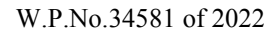
It is clear that the power conferred on the State Government by S.7-F to revise the orders passed by the Commissioner under S.3(3) is very wide. In the first place, the State Government need not necessarily be moved by any party in that behalf. It may call for the record suo motu and it can exercise its powers in the interest of justice. In other words, whenever it is brought to the notice of the State Government either by a party aggrieved by the order passed by the Commissioner or otherwise, that the order passed by the Commissioner is unfair or unjust, the State Government may in the ends of justice pass an appropriate order revising the order made by the



Commissioner. That in brief, is the scheme of the relevant provisions of the Act relating to the grant of permission of the landlord to sue his tenant in ejectment."
(emphasis supplied)

47. Therefore, such an ample and wide power vested with the Director under Section 5(2) of the Act cannot be denuded by making any arguments that such power could not have been invoked by the Director, pursuant to the instruction or advice given by the Commissioner.

48. As we discussed herein above, the Commissioner in fact has got the power under Section 7(b) of the Act and only by invoking his power under Section 7(b), he has given such instruction by way of advice to the Director, i.e., the first respondent to invoke his suo motu power under Section 5(2) of the Act. Therefore the said procedure adopted by both the Commissioner of Land Administration as well as the first respondent, the Director of Land Survey and Settlement is concerned, absolutely, there is no infirmity in such procedure adopted by them in invoking the powers under



49. For all these reasons stated herein above, I have no hesitation to say that, the writ petitioner has not made out any case to interfere with the impugned notice of enquiry, dated 29.01.2018, therefore the writ petition fails, accordingly, it is liable to be dismissed.

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51. In the said SLP, the Hon'ble Supreme court by order, dated 27.02.2023, has directed that, the status quo with respect to the property in dispute as of date shall be maintained by both the parties, in the meantime.

52. In view of the said order passed by the Hon'ble Supreme Court, it is open to the first respondent to get necessary clearance from the Hon'ble Supreme Court before proceeding with the enquiry in the suo motu proceedings as per the impugned notice.

53. With the aforesaid observation and direction, this writ petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. However, there is no order as to costs.

27.09.2023

Index : Yes
Speaking Order
Neutral Citation : Yes / No

tsvn



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To
WEB COPY

1. The Director of Land Survey and Settlement
Department Survey,
Rep. by its Director,
Chepauk,
Chennai - 600 005.
2. The Assistant Settlement Officer (North)
Office of the ASO,
Chennai - 600 005.
3. The Tahsildar
Office of the Thiruporur Tahsildar,
Thiruporur Taluk,
Chengalpattu District.



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R.SURESH KUMAR, J.

tsvn

**order in
W.P.No.34581 of 2022**

27.09.2023