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W.P.No.7822 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	01.08.2024
Pronounced On	06.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.7822 of 2019

and

W.M.P.No.8460 of 2019

1.P.Sasikumar

2.S.Rajasekaran

... Petitioners

Vs.

1.The Director,
Directorate of Land Survey and Settlement,
Land Survey and Settlement Department,
Survey House,
Chepauk, Chennai – 600 005.

2.The Assistant Settlement Officer (North),
Chepauk, Chennai – 600 005.

3.The Revenue Tahsildhar,
Taluk Office,
Chengalpet, Kanchipuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the impugned *suo-moto* revisional proceedings of the first respondent herein under Section 5(2) of



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the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963) emanating for the issuance of impugned Show Cause Notice dated 20.11.2018 in his proceedings in E2/1734/2018(2) culminating into consecutive Notice in E2/1734/2018(2) dated 31.01.2019 and quash the same.

For Petitioners : Mr.V.Prakash
Senior Counsel
Assisted by Mr.N.Palanikumar

For Respondents : Mr.J.Ravindran
Additional Advocate General
Assisted by M/s.R.L.Karthika
Government Advocate

ORDER

This Writ Petition has been filed seeking for issuance of a certiorari, to call for the records of the impugned *suo-moto* revisional proceedings of the first respondent herein under Section 5(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963) emanating for the issuance of impugned Show Cause Notice dated 20.11.2018 in his proceedings in E2/1734/2018(2) culminating into consecutive Notice in E2/1734/2018(2) dated 31.01.2019 and quash the same.

2. The case of the petitioners is that originally M.Ekambaram and others



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filed a Claim Application/Petition before the first respondent herein seeking issuance of Ryotwari Patta with respect to their respective lands situated at Echankarai Village, Chengalpet Taluk, Kanchipuram District. The said village was an Inam Estate. The Petitioners herein claimed issuance of Patta for their respective lands situate in the above mentioned Echankarai Village under Section 11(1)(i) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963) on the strength of personal cultivation of the lands for more than the period prescribed under the said Act. The second respondent herein, vide his order dated 28.02.2012 in his proceedings in S.R.01/2011-1/E2 directed that Ryotwari Patta shall be issued to the claimants. However, it is pertinent to mention that the final orders were passed issuing Ryotwari Patta for the lands in the name of its respective claimants. It is also mentioned in the order dated 28.02.2012, it has been clearly provided that any party aggrieved by the said order shall prefer an Appeal before the Tribunal with a span of three months from the date of order under Section 12(2) of the said Act. In so far the Government is concerned, limitation to prefer appeal has been provided as one year. Admittedly, no appeal has been preferred either by any aggrieved party or by the Government till date and therefore the order of the second respondent herein dated 28.02.2012 in his proceedings in S.R.01/2011-1/E2 had attained finality. Following the orders of the second



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respondent, the third respondent had issued Patta to the claimants vide his order dated 09.05.2012 and effected necessary mutations in the revenue records. Section 5(2) of the said Act empowers the first respondent to revise or cancel those non-appealable orders of Settlement Officer. The said provision, in its crystal clear terms, prohibits the exercise of such revisional powers by the first respondent herein with respect to orders of Settlement officer, for which appeal remedy is available before the Tribunal. In the present case, the order dated 28.02.2012 made by the second respondent herein in his proceedings in S.R.01/2011-1/E2 is appealable to the Tribunal as provided under Section 12(2) of the said Act. Thus, the above *suo moto* proceedings initiated by the first respondent herein suffers from lack of jurisdiction and explicit statutory prohibition. Hence the writ petition.

3. Learned Senior Counsel appearing for the petitioners submitted that the writ petition has been filed challenging the impugned Show Cause Notice dated 20.11.2018 issued by the first respondent herein calling upon the petitioners herein to show cause in *suo moto* proceedings initiated by them under Section 5(2) of the Act Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23 of 1963) (hereinafter referred to as the Act) as to why the order dated 28.02.2012 made by the second



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respondent herein in his proceedings in S.R.01/2011-1/E2 shall not be declared as cancelled. The above Show Cause Notice culminates into consecutive notice issued by the first respondent herein in his proceedings in E2/1734/2018(2) dated 31.01.2019. He further submitted that originally M.Ekambaram and others filed a claim application before the first respondent herein seeking issuance of Ryotwari Patta with respect to their respective lands situated at Echankarai Village, Chengalpattu Taluk, Kanchipuram District. The said village was a Inam Estate.

4. The petitioners herein claimed issuance of Patta for their above mentioned respective lands situated in the above mentioned Echankarai Village under Section 11(1)(i) of the Act on the strength of personal cultivation of the said lands for more than the period prescribed under the said Act. The said claim petition, pursuant to the orders of the Commissioner of Survey & Settlement was taken up for inquiry by the second respondent herein and after the exhaustive inquiry, with due consideration of the materials and documentary evidence submitted by the above mentioned claimants, the second respondent herein vide his order dated 28.02.2012 in his proceedings in S.R.01/2011-1/E2 was pleased to order that Ryotwari Patta shall be issued to the claimants therein under Section 11(1)(i) of the Act, on account of proof of



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their continuous cultivation by their predecessors in title and by themselves, invoking the powers delegated to the second respondent herein under Section 12(1) under the said Act.

5. Learned Senior Counsel appearing for the petitioners further submitted that the petitioners herein are the power holders of the above mentioned claimants i.e., M.Ekambaram and others and on the strength of the power granted by the claimants, the petitioners herein had participated in the above mentioned enquiry proceedings by the second respondent herein. However, it is pertinent to mention that the final orders were passed issuing Ryotwari Patta for the lands in the name of its respective claimants. It is also worth to mention that under the above mentioned order dated 28.02.2012, it has been clearly provided that any aggrieved persons by the said order shall prefer an appeal before the Tribunal with a span of three months from the date of order under Section 12(2) of the Act. Insofar as the Government is concerned, limitation to prefer appeal has been provided as one year. Admittedly, no appeal has been preferred either by any aggrieved party or by the Government till date and therefore, the order of the second respondent herein dated 28.02.2012 in his proceedings in S.R.01/2011-1/E2 had attained finality.



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6. Learned Senior Counsel appearing for the petitioners submitted that while things remain so, the first respondent herein issued the impugned Show Cause Notice dated 20.11.2018, calling upon the petitioners herein to show cause in the *suo moto* proceedings initiated by them under Section 5(2) of the Act as to why the order dated 28.02.2012 passed by the second respondent shall not be declared as cancelled. It is pertinent to mention that Section 5(2) of the Act empowers the first respondent to revise or cancel those non-appealable orders of the Settlement Officer. The said provision, in its crystal clear terms, prohibits herein with respect to the orders of the Settlement Officer, for which appeal remedy is available before the Tribunal. In the present case, the order dated 28.02.2012 made by the second respondent herein in his proceedings in S.R.01/2011-1/E2 is appealable to the Tribunal as provided under Section 12(2) of the Act. Thus, the *suo moto* proceedings initiated by the first respondent herein suffers from lack of jurisdiction and explicit statutory prohibition. Further, the proceedings of the first respondent herein were initiated against the petitioners herein alone, who are power holders of the original claimants.

7. Learned Senior Counsel appearing for the petitioners further submitted that the petitioners appeared for inquiry and filed a detailed Memo, whereunder, the petitioners had categorically highlighted to the first respondent



that he does not have any jurisdiction to proceed with the inquiry by initiating *suo moto* proceedings as the order passed by the second respondent falls under Section 11(1)(i) of the Act. It was also highlighted that if any person aggrieved by such an order, his remedy is to file an appeal with the Tribunal as the same would not come under the sweep of Section 5(2) of the Act and hence, requested to entertain the issue of jurisdiction at the first instance. The first respondent ignore the memo and directed the petitioners to participate in the inquiry, as he had strict instructions from the Commissioner of Land Administration armed with the opinion of legal experts. Thus, the issue of jurisdictional rights by the petitioners has been ignored by the first respondent.

8. The first respondent herein has initiated *suo moto* revisional proceedings after a lapse of nearly 8 years clearly exhibits arbitrariness, and *mala fides* and the same is liable to be quashed. Section 5(2) of the Act empowers the first respondent to revise or cancel those non-appealable orders of the Settlement Officer. The said provision, in its crystal clear terms, prohibits the exercise of such revisional powers by the first respondent with respect to orders of the Settlement Officer for which, an appeal remedy is available before the Tribunal.



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9. Learned Senior Counsel appearing for the petitioners would further submit that according to Section 7(c) of the Act, the order of the Settlement Officer cannot be revised. He further submitted that if there is an appealable remedy, no revision will lie and when there is no appeal remedy, revision can be made by the respective parties. In the case on hand, the order passed by the Settlement Officer dated 28.02.2012 is an appealable order and the period of limitation for the same is one year and no appeal has been preferred by the Government.

10. Learned Senior Counsel appearing for the petitioners would further submit that as per the Act, 1963, the Commissioner of Land Administration does not have powers to *suo moto* review the order passed by the Assistant Settlement Officer way back in the year 2012. The Show Cause Notice was also issued after a lapse of 6 years where the “Ryotwari Patta” was granted on 28.02.2012 by proceedings of the Assistant Settlement Officer (North) the second respondent and the *suo moto* revisional order date 28.09.2018.

11. Learned Senior Counsel appearing for the petitioners relied on the Division Bench Judgment of this Court in the case of **Rajathi and another Vs.**



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The Principal Secretary & Commissioner of Land Administration and

another in W.P.No.1464 of 2013 dated 22.02.2013, **2013 (2) CTC 129.**

12. Learned Senior Counsel appearing for the petitioners further submitted that this Court has granted interim stay of the impugned Show Cause Notice on 27.03.2019 in W.M.P.No.8460 of 2019 in W.P.No.7822 of 2019 and the same has been extended until further orders by order dated 29.04.2019 and the same is still in force as on date.

13. The Counter Affidavit was filed by the first respondent and the learned Additional Advocate General appearing for the respondents submitted that at the time of introduction of Ryotwari Settlement in the Village, the land comprised in Survey Nos.46/1, 2 and others was classified as “Government-Dry-Anadheenam” in the year 1965 and the same was not challenged till date. Hence, the Patta issued to the petitioners by the proceedings of the Assistant Settlement Officer (North) the second respondent in S.R.01/2011-1/E2 dated 28.02.2012 is illegal and invalid. He further submitted that the “Ryotwari Patta” was granted to the petitioners under Sections 9 and 11 of the Act. He further submitted that as per Section 12(2) of the Act, against a decision of the Settlement Officer under sub-section (1), the Government may, within one



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year from the date of the decision, and any person aggrieved by such decision may, within three months from the said date, appeal to the Tribunal; Provided that the Tribunal may, in its discretion, allow further time not exceeding six months for the filing of any such appeal; Provided further that the Tribunal may, in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Settlement Officer was vitiated by fraud or by mistake of fact.

14. Learned Additional Advocate General appearing for the respondents further submitted that no appeal has been filed by the Government challenging the proceedings of the Assistant Settlement Officer (North) the second respondent on 28.02.2012 granting “Ryotwari Patta” issued to the petitioners as per Section 12 of the Act.

15. Learned Additional Advocate General appearing for the respondents further submitted that in this case, the Patta was issued to the petitioners by the Assistant Settlement Officer (North) the second respondent by mistake since the land was classified as “Anadheenam land” as early as 1965.

16. Learned Additional Advocate General appearing for the respondents



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relied on the decision of the Division Bench of this Court in the case of **T.Giriraj (Deceased) and Amsa @ Hamsaveni Vs. The Special Commissioner and Commissioner for Land Administration, Chepauk, Chennai and others** in W.A.No.1748 of 2015 dated 25.09.2023, wherein, the Division Bench of this Court relied on the decision of the Full Bench of this Court in the case of **The Special Commissioner and Director of Survey and Settlement Vs. M.Arumugam**, in W.A.No.326 of 2007 dated 24.07.2007 reported in **2007 (4) CTC 538**.

17. Learned Additional Advocate General appearing for the respondents submitted that the application for the grant of Patta has been admitted after a lapse of 43 years, since the introduction of Ryotwari Settlement in Village, which is against Rule 9(1) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Rules, 1965 framed under the Act and also Section 12(2) of the said Act. The Settlement Tahsildar exercised the delegated powers of the Settlement Officer provided in Section 12(1) of the said Act at the time of introduction of the Ryotwari Settlement. Hence, if any person is aggrieved against any of the order, he may file an appeal before the Inam Abolition Tribunal only as per Section 12(2) of the said Act. With respect to the suit lands, the order as to the classification of the subject lands had already attained



its finality as per Section 71(1) of the said Act. Hence, the Assistant Settlement Officer has no jurisdiction to entertain any application afresh in violation of Rules 9(1) and 9(3) of the Rules framed under this Act. Since the subsisting order as to the classification determined at settlement as “Government Dry-Anadheenam” was not cancelled by the Appellate Forum, the order passed by the Assistant Settlement Officer (North) the second respondent herein for the second time with respect of the same land is *void ab initio*. This apart, in the inquiry conducted by the Assistant Settlement Officer (North) the second respondent herein, the petitioners did not file any valid documents or records to prove their rights as per the provisions of the Inam Abolition Act.

18. It is further submitted that in view of the above circumstances, the Additional Chief Secretary and Commissioner of Land Administration, in consultation with the Additional Advocate General, instructed the Director of Survey and Settlement as per Section 7(c) and 7(d) of the said Act, to review the above orders of the Assistant Settlement Officer *suo moto* under Section 5(2) of the said Act.

19. Accordingly, the Show Cause Notice was issued to the respective petitioners requested them to show the reasons as to why the above orders of



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the Assistant Settlement Officer should not be cancelled on the grounds stated above and challenging the said Show Cause Notice, the petitioners have come forward with the present writ petition.

20. It is further submitted that this village has been settled under the said Act in the year 1377 fasli (calender year 1967) and the suit lands have been classified as “Government Dry-Anaadheenam” lands.

21. If any person aggrieved against the classification or order or the grant or non-grant of Patta, the aggrieved person can file an appeal before the Inam Abolition Tribunal within three months as per Section 12(2) of the said Act. If no one has filed an appeal, the order passed/classification determined last became final as per Section 71(1) of the said Act and it cannot be questioned before any Court as per Section 71(2) of the said Act.

22. When the entire settlement work has been completed about 43 years ago, based on applications or *suo moto* as per Rule 9(1) and 9(3) of the said Rules, there can be only appeals and no fresh applications/petitions. Further, as per Section 11 of the said Act, the claimants should prove that the said lands were under his personal cultivation prior to the dates mentioned in the provisions. But, the Assistant Settlement Officer did not look into all these



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matters and passed orders without jurisdiction. Thus, the Assistant Settlement Officer cannot entertain any petitions/appeals and pass any second order for the same land, unless or otherwise the earlier subsisting orders as to its classification and title were not cancelled by the appropriate appellate forum appointed under the said Act. Hence, the orders of the Assistant Settlement Officer (North) in question were without jurisdiction, unlawful and *void ab initio* in the eyes of law. Further, these orders were not mutated in revenue records and no Pattas were issued. The above orders passed by the Assistant Settlement Officer came to be knowledge of the Additional Chief Secretary and Commissioner of Land Administration and found to be irregular and he directed the Director of Survey and Settlement as per Section 7(c) and 7(d) of the said Act, to take up this matter for *suo moto* review. Hence, the Director of Survey and Settlement issued Show Cause Notices to the respective petitioners in order to provide opportunity of hearing to the petitioners herein to substantiate their rights as per law.

23. Further, the classification of the land as “Government-Dry-Anaadheenam” had already attained its finality as per Section 71(1) of the Act as there was no appeal within the stipulated appeal time provided in Section 12(2) of the said Act. Further, when this order was not cancelled and remanded



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to the Assistant Settlement Officer by any of the appellate/revision authorities appointed under the Act, the Assistant Settlement Officer cannot pass another order for the same land. In this matter, as the Assistant Settlement Officer has passed another order for the same land even when the earlier subsisting order is valid and therefore the order passed by the Assistant Settlement Officer (North) the second respondent is *void ab initio*. It is further submitted that the petitioners sought for certain copies of records under the RTI Act, available in the Assistant Settlement Officer's file and they were issued to the petitioners under the RTI Act vide Office Endorsement Letter Rc.D2-1234-2019 dated 08.05.2019.

24. The petitioners have appeared for the inquiries conducted on 28.11.2018, 12.12.2018 and 20.02.2019, through their Advocates and requested time for filing suitable replies to the Show Cause Notice to issue to them. Thus, the petitioners are only delaying in filing the written statements or put forth their documents/records to substantiate their rights over the suit lands, as per law. It is further submitted that if the notices are stayed or cancelled, the Government would face difficulties in protecting Rs.350 Crores valuable Government lands for an extent of 23.42.0 Hectares or 57.85 Acres and it will further pave way for others to grab the valuable Government lands in the same manner.



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25. Heard the learned Senior Counsel for the petitioners and the learned Additional Advocate General for the respondents and perused the materials available on record.

26. It is pertinent to extract the relevant portion of the Assignment Order dated 28.02.2012 and the same reads as follows:-

“இவ்வழக்கில் மனுதாரர்களால் தாக்கல் செய்யப்பட்ட கிரயப் பத்திரங்கள் தொடர்புடைய வருவாய்க்கணக்குகள் நிலவரித்திட்ட எஸ்.ஆர்.கோப்பு, எஸ்.எல்.ஆர் மற்றும் விசாரணை அறிக்கைகள் மனுதாரர்கள் கோரிக்கை குறித்து கூர்ந்து பரிசீலிக்கப்பட்டன. மனுதாரர்கள் பட்டா கோரும் புலங்கள் அவர்களாலும் அவர்களுக்கு முன்பு அவர்களுக்கு கிரயம் கொடுத்தவர்களாலும் சொந்தமாக பயிரிடப்பட்டு முழு அனுபவம் செய்து வருவதும் தமிழ்நாடு சட்டம் 26/63-ன் கீழ் மனுதாரர்கள் அல்லது அதற்கு முன் நிலத்தை விவசாயம் செய்து வருபவர் சட்டப்பிரிவின் கீழ் நிர்ணயிக்கப்பட்ட நாளான 15.4.1965 அன்றும் அதற்கு முன் 12 ஆண்டுகள் தொடர்ச்சியாக விவசாயம் செய்து வருவதாகவும் அவர்கள் தெரிவித்துள்ளதை ஏற்றும் இதில் இவர்கள் பட்டா பெறுவதில் ஆட்சேபனை ஏதுமில்லை என்பது ஆவணங்களின்படி உரிமை பெற்று அனுபவித்து வருவதும் தெளிவாகத் தெரிய வருவதால் தமிழ்நாடு இனாம் எஸ்டேட் (ஒழிப்பும் மற்றும் ரயத்துவாரியாக மாற்றலும்) சட்டம், 26/63-ன் பிரிவு 10(1) மற்றும் 11(1)(i)-ன் கீழ் பட்டியலில் கண்டவாறு மனுதாரர்களுக்கு ரயத்துவாரி பட்டா வழங்கி ஆணையிடுகிறேன்.”

27. The main contention of the petitioners is that the order vide proceedings in S.R.01/2011-1/E2 was passed by the Assistant Settlement Officer (North), Chepauk, Chennai, the second respondent on 28.02.2012



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granting “Ryotwari Patta” to the petitioners and if the Government is aggrieved by the said order, they have every right to challenge the same under Section 12 of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963). The Government has not preferred or filed any appeal against the above order till date and it has reached its finality.

28. It is pertinent to extract Section 12 of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963).

“12. Determination of lands in which any person is entitled to Ryotwari Patta:

(1) The Settlement Officer shall examine the claims of any person for a ryotwari patta under Section 9 or Section 10 or Section 11, as the case may be, and decide in respect of which lands the claim should be allowed.

(2) Against a decision of the Settlement Officer under subsection (1), the Government may, within one year from the date of the decision, and any person aggrieved by such decision may, within three months from the said date, appeal to the Tribunal.

Provided that the Tribunal may, in its discretion, allow further time not exceeding six months for the filing of any such



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appeal:

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Provided further that the Tribunal may, in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Government Officer was vitiated by fraud or by mistake of fact.”

29. The issue/point for consideration and to be decided in this writ petition is that

“whether the Additional Chief Secretary/Commissioner of Land Administration or the Director of Land Survey and Settlement has got power to *suo moto* review the order dated 28.02.2012 passed by the Assistant Settlement Officer (North), Chennai the second respondent, when there is an appeal remedy available under Section 12 of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963).”

30. The *suo moto* revisional order was passed by the Additional Chief Secretary/Commissioner of Land Administration after a lapse of 6 years vide his proceedings in Lr.No.K1/26218/2017 dated 28.09.2018 pursuant to which, the impugned Show Cause Notice bearing No.E2/1734/2018(2) dated 20.11.2018 and the consecutive Notice dated 31.01.2019 were issued by the first respondent.



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31. It is pertinent to extract Section 7 of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963), which deals with the exercise of revisional power by the Board of Revenue. It reads as under:-

“7. Powers of control of the Board of Revenue:

The Board of Revenue shall have power-

(a) to give effect to the provisions of this Act and in particular to superintend the taking over of estates and to make due arrangements for the interim administration thereof;

(b) to issue instruction for the guidance of the Director, District Collectors, Settlement Officers and managers of estates;

(c) 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; and

(d) to cancel or revise any of the orders, acts or proceedings of the Director or of any District Collector, including those passed, done or taken in the exercise of revisional powers.”

32. In the subject matter land, the “Ryotwari Patta” was issued to the petitioners by the Assistant Settlement Officer (North), Chepauk, Chennai, the second respondent on 28.02.2012 under Section 11(1)(i) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu



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Act 26 of 1963).

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33. The Director of Survey and Settlement, Chepauk, Chennai had referred in the Show Cause Notice about the Letter bearing Na.Ka.No.1/26218/2017 dated 28.09.2018 issued by the Additional Chief Secretary/Commissioner of Land Administration, but the copy of the above referred letter was not enclosed along with the Show Cause Notice.

34. By virtue of Section 5(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, the Director of Survey and Settlement shall have the power to cancel or revise any of the orders, or proceedings of the Settlement Officer, **other than the matter for which an appeal lies to the Tribunal.**

35. The Director of Survey and Settlement proceeded to issue Show Cause Notice under Section 5(2) of the Act, in pursuant to the above referred letter and on instruction of the Additional Chief Secretary/Commissioner of Land Administration.



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36. Even as per Section 5(2), the Director of Survey and Settlement is not entitled to issue Show Cause Notice to the First Respondent since the order of the Assistant Settlement Officer (Settlement Tahsildar) referred in the Show Cause Notice are passed under Section 11(1)(i) of the above said Act, which is an appealable order. Section 5(2) of the Act will be applicable only in cases where no appeal to Tribunal are prescribed under the Act. Section 11(1)(i) of the Act is appealable as per Section 12(2) of the Act. Therefore, the Director of Settlement is not having any jurisdiction to issue Show Cause Notice to the first respondent under Section 5(2) of the Act.

37. The appeal against the order passed by the Assistant Settlement Officer lie only before the Tribunal within the prescribed period of limitation under Section 12(2) of the Act and as such Director of Settlement cannot take the *suo moto* review as directed by the Commissioner of Land Administration.

38. None of the provisions in the Act empowers the Commissioner of Land Administration to remand and direct the Director of Survey and Settlement to pursue action against the order passed by the Assistant Settlement Officer under Section 11(1)(i) of the Act. Hence, the act of Commissioner of Land Administration in remanding and directing the Director of Survey and



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Settlement to pursue action against the order passed by the Assistant Settlement Officer under Section 11(1)(i) of the Act is against the provisions of the Act.

39. The act of the Director of Survey and Settlement in accordance to the direction/instruction given by the Commissioner of Land Administration and causing notice to the first respondent against the order passed by the Assistant Settlement Officer under Section 11(1)(i) of the Act is also against the provisions of the Act.

40. The learned Senior Counsel for the petitioners relied on the Judgment of the Division Bench of this Court in the case of **Rajathi and another Vs. The Principal Secretary & Commissioner of Land Administration and another**, in W.P.No.1464 of 2013 dated 22.02.2013, 2013 (2) CTC 129 and the same is not applicable to the case on hand since the proceedings in that case was under the **Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Tamil Nadu Act 26 of 1948)**.

41. The main contention of the respondents is that the land has been classified as “Government-Dry-Anadheenam” land way back in the year **1965** and the same was not challenged till now by the petitioners.



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42. At this juncture, it is pertinent to mention that the order in regard to issuance of “Ryotwari Patta” in favour of the petitioners by the Assistant Settlement Officer (North), Chepauk, Chennai, the second respondent was passed on 28.02.2012 after considering all the documents submitted by the petitioners and after conducting a detail inquiry. The third respondent following the order of the second respondent has also issued Patta to the claimants vide his order dated 09.05.2012.

43. Learned Additional Advocate General for the respondents relied on the Judgment of the Division Bench of this Court in the case of **T.Giriraj (Deceased) and Amsa @ Hamsaveni Vs. The Special Commissioner and Commissioner for Land Administration, Chennai and others**, in W.A.No.1748 of 2015 dated 25.09.2023 following the Judgment of the Full Bench of this Court in the case of **The Special Commissioner and Director of Survey and Settlement Vs. M.Arumugam** in W.A.No.326 of 2007 dated 24.07.2007, 2007 (4) CTC 538.

44. The above Judgment of the Division Bench following the Full Bench Judgment of this Court is not applicable to the case on hand since



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the Full Bench of this Court passed Judgment under Section 5(2) of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Tamil Nadu Act 26 of 1948). In the present case, the proceedings has been initiated as per Section 5(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963).

45. This Court at the time of admission of the writ petition, has granted interim order of stay on 27.03.2019 in W.M.P.No.8460 of 2019 in W.P.No.7822 of 2019 until further orders, and the same is in force till date.

46. In view of the above factual matrix of the case, this Court is of the considered view that the Director of the Land Survey and Settlement Department the first respondent herein cannot *suo moto* review the order passed by the Assistant Settlement Officer (North), Chennai, the second respondent herein dated 28.02.2012 when there is an appeal remedy provided to the Government under Section 12(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 26 of 1963) and the same was not preferred by the Government till date.



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47. It is crystal clear and evident that the impugned Show Cause Notice dated 20.11.2018 issued by the first respondent in his proceedings in E2/1734/2018(2) culminating into consecutive Notice in E2/1734/2018(2) dated 31.01.2019 is without jurisdiction and the same is liable to be set aside or quashed.

48. The impugned *suo moto* revisional proceedings initiated by the first respondent herein under Section 5(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963) is liable to be quashed on the following reasons and grounds:

- (1) The order passed by the second respondent dated 28.02.2012 is an appellable order and no review will lie against the said order and the same is not maintainable under the said Act.**
- (2) The order of the second respondent is an appealable order and the Government has not preferred any appeal under Section 12(2) of the the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963) till date.**
- (3) The *suo moto* review can be done only under Section 7(c) of the the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963) and the same reads as follows:-**



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“7(c) 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.”

In the case on hand, the appeal lies to the Tribunal and the Government has not preferred any appeal till date.

49. In fine, the impugned *suo-moto* revisional proceedings of the first respondent herein under Section 5(2) of the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 (Act 23/1963) emanating for the issuance of impugned Show Cause Notice dated 20.11.2018 in his proceedings in E2/1734/2018(2) culminating into consecutive Notice in E2/1734/2018(2) dated 31.01.2019 is liable to be quashed and the same is hereby quashed.

50. In the result, this Writ Petition stands allowed with the above observations. No costs. Connected Writ Miscellaneous Petition is closed.

06.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order



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Neutral Citation : Yes/No

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To

- 1.The Director,
Directorate of Land Survey and Settlement,
Land Survey and Settlement Department,
Survey House,
Chepauk, Chennai – 600 005.
- 2.The Assistant Settlement Officer (North),
Chepauk, Chennai – 600 005.
- 3.The Revenue Tahsildhar,
Taluk Office,
Chengalpet, Kanchipuram District.



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J.SATHYA NARAYANA PRASAD, J.

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Pre-delivery Order in W.P.No.7822 of 2019
and
W.M.P.No.8460 of 2019

06.09.2024