IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.03.2024
Pronounced on : 24.06.2024

Coram:

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**

W.P.No.29120 of 2018 and
W.M.P.Nos.340507, 34058 & 34062 of 2018

1. Perundevi Krishnan
2. Lalitha Narasimhachariar
3. C.R.Malavika @ Malavika Tohani,
   Represented by her Power Agent
   Srinath Krishnan … Petitioners

Vs.

1. The Commissioner Land Administration (i/c)
   Chepauk, Chennai - 600 005.

2. The District Revenue Officer,
   Collector Office, Thaiyar Kullam,
   Kancheepuram 631 501.

3. Revenue Divisional Officer,
   Collector Office, Thaiyar Kullam,
   Kancheepuram 631 501.

4. The Tahsildhar,
Sriperumbudur Taluk,
Kancheepuram District. ... Respondents

**Prayer**: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents especially the orders of the first respondent, dated 17.05.2013 in Ref.D.Dis.K3/25405/2005 confirming the order of the second respondent dated 17.06.2005 in Ref.No.N2/70925/2003 and quash the same and further direct the third respondent to grant patta under Sections 12 to 14 of the Act XXVI of 1948.

For Petitioner : Mr.V.Ramesh for
Mr.T.Thiyagarajan

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader

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**ORDER**

This writ petition is filed seeking to quash the orders of the first respondent, dated 17.05.2013 in Ref.D.Dis.K3/25405/2005 confirming the order of the second respondent dated 17.06.2005 in Ref.No.N2/70925/2003 and to direct the third respondent to grant patta under Sections 12 to

14 of the Act XXVI of 1948.

**2** The brief facts of the case is that the first petitioner's grandfather was the Shotrimdar of the lands in question and her father T.K.Narasimhachariar has made a claim for patta under Act XXVI of 1948 in respect of lands in Survey Nos.401/4 etc. numbering about 44 items, totally measuring about 30 acres. The application was made long back during 1963, which appears to have been returned, as he did not affix necessary Court Fee on the said application. Similarly, another application was made in Ref.R/540/1972 on 26.09.1972 which again was returned on some flimsy grounds. The application made in the year 1972 appears to have been made requesting patta outside the scope of Abolition Act. Though the applications were filed seeking patta, no application came to be dealt on merits by the authorities under the provisions of Act XXVI of 1948. Therefore his claim was not considered as envisaged under the provisions of the Act. There are also records to establish that the petitioners have been knocking at the doors of the respondents for grant of patta. In fact, a report of the District Revenue Officer dated 21.11.1995 addressed to the Commissioner Survey and Settlement, Chepauk, Chennai 5, would clearly establish that T.K.Krishnamachari has sought ryotwari patta, on which, report appears to have been called from the District Revenue Officer. The District Revenue Officer has very clearly recommended for grant of patta in favour of the first petitioner's father. The District Revenue Officer's report is supported by a report of the concerned Tahsildhar. The said application to the District Revenue Officer, obviously have been made invoking G.O.Ms.No. 1300, Revenue, for issuance of patta outside the scope of Abolition Act.

**2.1** Thereafter since no orders were passed and no action was taken by the District Revenue Officer, a Writ Petition No.24923 of 2004 was filed before this Court for a Mandamus to consider and issue of patta as per representation invoking G.O.Ms.No. 1300 (Revenue), dated

30.04.1971 and the same was ordered on 07.07.2004. Pursuant to which the District Revenue Officer passed an order on 17.06.2005, rejecting the request for grant of patta. Aggrieved against the orders of the District Revenue Officer, a revision was filed before the first respondent on 11.07.2005, which was dismissed by an order dated 17.05.2013. After dismissal of the revision, another representation was submitted by the first and second petitioners, which was also rejected by order of the first respondent dated 29.06.2017, on the ground that the second revision is not maintainable. Aggrieved against the orders of the respondents rejecting the request for grant of patta under the provisions of Act XXVI of 1948 and as per G.O.Ms.1300 (Revenue) dated 30.04.1971, the present writ petition is filed.

**3** The respondents filed their counter stating that Kannanthangal Village, in Sriperumbudur Taluk, Kancheepuram District was a Shrothrium Village and taken over by the Government under Tamil Nadu Estates

(Abolition & Conversion into Ryotwari) Act XXVI of 1948 ( in short the 'Act'). One T.K. Narsimhachariar has submitted a petition on 10.12.1991 to the first respondent claiming that he was paid compensation amount of Rs. 7250/- (Rupees Seven Thousand Two Hundred and Fifty Only) and the subject lands have been settled as assessed waste dry (Anadeenam) in the settlement. He has also claimed that though he has applied for grant of patta for the subject land, patta was not granted. The petition given by the him was forwarded to the District Revenue Officer, Kancheepuram on 19.12.1991. The writ petitioners are the legal heirs of the said Thiru.T.K. Narasimhachariar.

**3.1** The petitioners herein have filed a writ petition in W.P.No. 24923 of 2004 before this Court and this Court directed the District Revenue Officer, by its order dated 07.07.2004 to dispose of the petitioners' application as per G.O. (Ms).No.1300, Revenue, dated 30.04.1971. The District Revenue Officer in his proceedings dated

17.06.2005 has rejected the request of the petitioners that the concession granted by the Government to apply for patta under G.O. (Ms) No.1300, has come to an end on 30.06.1975 as per G.O. Ms. No. 589 CT & RE Department, dated 14.05.1975. The District Revenue Officer has further stated that the petitioners have not furnished documentary proof that they are in possession and enjoyment of the subject land from the notified date of 01.10.1951. The District Revenue Officer has also contradicted the statements of the petitioners that their predecessor in title applied for patta as early as in the year 1972.

**3.2** Against the orders of the District Revenue Officer, the petitioners herein have filed a revision petition before the first respondent herein and the petitioners have also filed a writ petition in WP.No. 2105 of 2013 before this Court for early disposal of their revision petition. This Court by its order dated 29.01.2013 have directed the first respondent to dispose of the appeal dated 11.07.2005 on merits and in accordance with law within a period of 8 weeks. The first respondent conducted an enquiry and the learned counsel for the petitioner and the petitioner in person appeared for the enquiry and submitted their case. The arguments advanced by the learned counsel and the written arguments filed by the petitioners have been carefully considered and other connected records also been verified. The Kannanthangal Village in Sriperumbudur Taluk, Kancheepuram District was a Shrothrium village taken over by the Government under Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act XXVI of 1948. It can be seen from the photocopies of the SLR available in Collector's disposal that the predecessor in title where the Shotriumdars (Land holder), who have failed to apply for patta under Section 15 of the Act and that the lands have been recorded as "Assessed Waste Dry (Anadheenam)". As per section 15 of the Act, appeals against the decision made in Final Settlement Enquiry should have been preferred before the Estate Abolition Tribunal. However, the petitioners have not preferred any such appeals before the Tribunal. They have claimed patta outside the scope of the Act before the District Revenue Officer only in the year 1991 after the lapse of 4 years.

**3.3** The petitioners contention is that time limit was not fixed to apply for patta under G.O.Ms.No.1300, Revenue Department, dated: 30.04.1971. It would be pertinent to point out that in G.O Ms. No. 589, CT & RE Department, dated 14.05.1975 the Government have extended time limit to apply for patta outside the scope of the Act upto 30.06.1975. In the said G.O. it has been explained that the time limit to apply for patta outside the scope of the Act have been extended from 30.06.1973 to 26.12.1973 and upto 30.06.1974 and finally extended upto 30.06.1975. Further, in amended rules published in G.O.1400, CT & RE Department, dated 21.11.1975, the appeal time had been extended without limitation and finally extended as per further amendment to the said rules published in G.O.714 C.T & R.E Dept. dated, 29.06.1987, and that ended on

20.08.1987. According to this rule amendment, the last date of apply for condonation of delay to get patta u/s.11(a) of the Act was fixed as 20.8.1987. The petitioners have not produced any tangible evidence to prove that the predecessor in title has applied for grant of patta outside the scope of the Act, before 20.8.1987.

**3.4** The Government of Tamil Nadu under the powers conferred in Section 67(2)(d) of the Act issued a Notification in G.O.Ms.No.714, Commercial Taxes and Religious Endowment Department, dated 29.6.1987 and amended the Rules to the Act to fix 20.8.1987 as the last date to apply for Ryotwari Patta under Section 11 of the Act. The Government had also withdrawn the powers of the settlement authorities to condone the delay and entertain fresh applications. However, the *suo motu* power of the Commissioner of Land Administration under Section 7 of the Act has been retained in the said Notification. Therefore, the Assistant Settlement Officer, the Settlement Officer and the Director of Survey and

Settlement have no authority to entertain any appeals even under Section 11 of the Act after 20.8.1987. Further, the Hon'ble Full Bench of this Court in a judgment dated 24.7.2007 in W.A.No.326/2007 and in many cases have upheld that the provisions of Sections 5 and 7 of the Act confer extremely broad powers on the Director and the Board of Revenue (Commissioner of Land Administration) respectively for correcting the mistakes committed by the lower authorities. Further, in a judgment of the Division Bench of this Court in W.A.No.96/2015, dated 9.2.2016, have elaborately discussed the provisions of the Act confirming the *suo motu* powers of the Commissioner of Land Administration under Section 7 of the Act XXVI of 1948 and also the limitation prescribed under the Notification issued in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, Dated 29.6.1987 and upheld the order passed by the Commissioner of Land Administration, rejecting the request for Patta made by various petitioners under the Act as time barred, which was also validated by the Hon'ble Supreme Court of India by dismissing the SLP(c) 13454/16, dated 13.05.2016.

**3.5** Further *in W.A.739 of 2019 in the case of B. Udayan and others Vs. Commissioner of Land Administration, the Division Bench of this Court by judgment dated 19.8.2021* has held that the appellants has got neither *locus standi* to file application for grant of ryotwari patta beyond 20.8.1987 nor the authorities have power or jurisdiction to receive the application and grant ryotwari patta beyond G.O.Ms. No. 714 dated 29.6.1987. The Government of Tamil Nadu have passed an Act called Act No.16 of 2023 an Act to Repeal certain enactments" wherein repealed the 16 enactments which inclusive of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948. Hence, as on date, the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act 26 of 1948 is repealed.

4 The learned counsel appearing for the petitioners would submit that the provisions of Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, XXVI of 1948, is only an enabling Act which enables the Government to grant patta under Sections 11 to 15. Under Section 3 of the Act, the entire estate vests with the Government when the Act was notified on 19.04.1949. The vesting of these lands took place on 03.01.1950. In this case, all rights and interest created over the estate by the principals or the landholders shall ceases and determine without disturbing their possession. The Act also declares that the relationship of a landholder and ryot shall stand extinguished. In this case, it is an admitted fact that Kannanthangal Village was a Shotrimdar Village covered by Act XXVI of 1948. The authorities have also admitted that the petitioners' predecessors in title were Shotrimdar (landholder) as per the SLR, however, it is observed that they have failed to apply for patta under Section 15 of the Act and the lands have been recorded as Government

assessed Waste dry (Anadeenam). But the fact is that the earlier attempts of the petitioners' predecessors in 1962 and 1972 were not considered on merits and the applications were returned on flimsy grounds, which has resulted in invoking G.O.Ms. 1300 (Revenue), which again is a method prescribed by the Government to a person who can seek and obtain patta.

**4.1** The learned counsel would further submit that in fact, when the Act does not contain any period of limitation for obtaining patta, the introduction of Government Order enabling the landholders to obtain patta outside the scope of Abolition Act invoking few Government Orders are a beneficial Act only to confer patta on the deserving persons, though the said Government Orders are no way superior to the provisions of the Act. It is an opportunity conferred by Government on these persons to invoke either the provisions of the Act or the Government Order and hence the observation of the respondents that the petitioners have failed to file an appeal under Section 15 is totally unnecessary and misconceived. Further the observation of the respondents that as per Section 15, appeal against the decision made in the final Settlement enquiry should have been preferred to the Tribunal is contrary to the Scheme of the Act. When the first respondent has observed that the petitioners have failed to apply under Section 15 of the Act for grant of patta, it passes one's comprehension as to how the person who has not invoked Section 15 of the Act can prefer an appeal to the Tribunal. In fact, failure to invoke Section 15 is one of the grounds based on which G.O.Ms.No.1300 can be invoked. This scheme of things giving right to the landholder has been lost sight of by the first respondent.

**4.2** The classification of land as assessed waste dry (Anadeenam) is again a classification which is not supported by any rules or regulations contained in Revenue Standing Orders or provisions of Act XXVI of 1948. Section 15 empowers the Settlement Officer to examine the nature of history of all lands in respect of which the landholder claims ryotwari patta under Section 12 to 14 of the Act. Therefore, Section 15 would arise only when an application is made by the landholder under Section 12 to 14 of the Act and not in any other circumstance. Therefore, it follows that when the application is made under Section 12 to 14 of the Act seeking ryotwari patta by the landholder and Settlement Officer passes an order invoking Section 15 either granting or rejecting patta under Section 12 to 14 of the Act, then an appeal would lie to the Tribunal under Sub Section 2 (a) of Section 15 and not in a case where land has been wrongly declared as Anadeenam by the Revenue Officials. No land covered by Act XXVI of 1948 can be declared as Anadeenam and such a classification defeats the very purpose of the Act. Further when the petitioners' predecessors in title has been shown as landholder in SLR, the respondents ought to have graciously granted ryotwari patta under Section 12 to 14 or as per G.O.Ms.No.1300, (Revenue), after changing the classification from Anadeenam. The first respondent has powers to reclassify any land which is classified as Anadeenam. The respondents have failed miserably in their duty to grant patta based on their own records.

**4.3** The observation of the first respondent that the petitioners' claim for patta outside the scope of Abolition Act made during 1991 is clearly outside the period prescribed in G.O.Ms.No.1300 30.04.1975 and 589 CT & RE↓ Department dated 14.05.1975 cannot be accepted and the finding that the Government has extended time only upto 13.06.1975 and any application made thereafter cannot be considered is again not correct. This approach of the Government and the respondents is clearly contrary to the provisions of Act XXVI of 1948. The Act never intended Government to retain the land of landholder for its use and purposes. As stated already, the lands vests with the Government for a very limited purpose and that purpose is to grant "Patta" to the ryot or the landholders and no other purpose is contained in the provisions of the Act. If patta cannot be granted as per G.O.Ms.No. 1300 (Revenue) or 589 the landholder is still entitled for patta under the provisions of the Act. Therefore, the first respondent ought to have directed the Settlement Officer to grant Patta invoking Section Act 12 to 14 of the Act and the respondents should have taken various documents into account for grant of patta. There are enough materials to prove that patta was requested under the provisions of Abolition Act and there are correspondences in this regard. Applications for grant of patta were made in 1962 and 1972. Application made in 1972 to the Collector was returned for want of Court Fee and extract of the SLR. Therefore, it is obvious that the applications have been made to the Collector invoking Government Order which enables the revenue authorities to grant patta outside the scope of the Abolition Act.

**4.4** Further, the first petitioner's uncle Mr.K.S.Srinivasan, brother of the first petitioner's father Mr.Narasimhachariar who was also owning land in the same village, who was again a Shotriumdar, was granted patta, pursuant to the orders of Board of Revenue dated 22.01.1969 in proceeding

68 of 1969. Patta was granted in proceedings dated 28.06.1969 in R.Dis.56764/68. These facts are clearly available as a reference in the proceedings of the District Revenue Officer who has granted patta outside the scope of Abolition Act referring to a Government Order which was existing prior to introduction of G.O.Ms.No.1300 (Revenue). Mr.K.S.Srinivasan was granted patta whose lands are adjacent and in the vicinity of the lands held by the petitioners. The order of the District Revenue Officer dated 28.06.1969 was referred to in the petitioners' representation to the first respondent, after his order dated 17.05.2013. In spite of producing orders of similar nature, the petitioners were not granted patta in respect of lands held and owned in Survey No.401/4 etc. In fact, the lands held by Mr.K.S.Srinivasan for which patta was granted is comprised in Survey No.401/7 onwards numbering about 54 items of similar extents. In fact, there is one parcel of land in the same vicinity and patta was granted to another Shotriumdar who is also the petitioners'

relative. Even, today, the petitioners have been in possession and enjoyment of the lands and is assessed to land revenue and Kist is collected by the authority from a period prior to the introduction of the Act from the first petitioner's grandfather Mr.Appalachariar and later from Mr.T.K.Narasimhachariar. SLR for Survey No. 401/4 etc., refers to the name of Mr.Appalachariar vide patta No.989 and in the last column it is shown as Anadheenam referring to Section 15 and also carries an entry that "Not Applied for". In effect, this classification as Anadheenam cannot remain permanent and it is not an uncureable entry. In many cases, where entries of Anadeenam have been corrected and the original land owners have been given patta. Even in respect of revenue lands held by the landholders which lands were not attracted by the provisions of Act XXVI of 1948 the entry as Anadeenam is corrected and revenue patta granted. Hence, the orders of the respondents rejecting the petitioners' request to grant of patta cannot therefore, be sustained.

**5** Learned Additional Government Pleader for the respondents would submit that the predecessor in title of the petitioners have failed to apply for patta under Section 15 of the Act within the stipulated time and that the lands have been recorded as “Assessed Waste Dry (Anadheenam)”. They have claimed patta outside the scope of the Act before the District Revenue Officer only in the year 1991 i.e. after the lapse of four years. As far as the contention of the petitioners that there is no time limit fixed to apply for patta under G.O.Ms.No.1300, Revenue Department dated 30.04.1971, is concerned, it would be pertinent to point out that in G.O.Ms.No.589, CT & RE Department, dated 14.05.1975, the Government have extended time limit to apply for patt outside the scope of the Act upto 30.06.1975, in which it is clearly stated that time limit to apply for patta outside the scope of the Act have been extended from 30.06.1973 to 26.12.1973 and upto 30.06.1974 and finally extended upto 30.06.1975.

**5.1** Further in amended rules published in G.O.1400, CT & RE Department, dated 21.11.1975, the appeal time had been extended without limitation and finally extended as per further amendment to the said rules published in G.O.714 CT & RE Department dated 29.06.1987, and that ended on 20.08.1987 and according to this rule amendment, the last date of apply for condonation of delay to get patta under Section 11(a) of the Act was fixed as 20.08.1987. The petitioners have not produced any tangible evidence to prove that their predecessors in title had applied for grant of patta outside the scope of the Act, before 20.08.1987.

**5.2** Further the Government of Tamil Nadu under the powers conferred in Section 67(2)(d) of the Act issued a Notification in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, dated 29.06.1987 and amended the Rules to the Act to fix 20.08.1987 as the last date to apply Ryotwari Patta under Section 11 of the Act. The Government had also withdrawn the powers of the settlement authorities to condone delay and entertain fresh applications. However, the *suo motu* power of the Commissioner of Land Administration under Section 7 of the Act has been retained in the said Notification. Further, the Hon'ble Full Bench of this Court in a judgment dated 24.7.2007 in W.A.No.326/2007 and in many cases have upheld that the provisions of Sections 5 and 7 of the Act confer extremely broad powers on the Director and the Board of Revenue (Commissioner of Land Administration) respectively for correcting the mistakes committed by the lower authorities. Further the Division Bench of this Court in judgment dated 9.2.2016 in W.A.No.96/2015, have elaborately discussed the provisions of the Act confirming the *suo motu* powers of the Commissioner of Land Administration under Section 7 of the Act XXVI of 1948 and also the limitation prescribed under the Notification issued in G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department, Dated 29.6.1987 and upheld the order passed by the Commissioner of Land

Administration, rejecting the request for Patta made by various petitioners under the Act as time barred, which was also validated by the Hon'ble Supreme Court of India by dismissing the SLP(c) 13454/16, dated 13.05.2016.

**5.3** Therefore the petitioners are not entitled to the relief sought for in this writ petition and the same is liable to be dismissed.

**6** Heard the learned counsel for the petitioners and the learned Additional Government Pleader for the respondents and perused the materials available on record.

**7** The petitioners claimed patta for the property comprised in S.No.401/4 etc. numbering about 44 items, totally measuring about 30 acres. It is the contention of the petitioners that their request for grant of patta has been rejected by the respondents. The respondents contended that they have not filed application under Section 15 of the Act within the stipulated time.

**8** A perusal of the materials would show that even though the petitioners contended that they knocked the door of the respondents' office to obtain patta, there is no document to show that the predecessors of the petitioners had approached the first respondent seeking patta under G.O.Ms.No.1300, Revenue Department, dated: 30.04.1971. In G.O Ms. No. 589, CT & RE Department, dated 14.05.1975 the Government have extended time limit to apply for patta outside the scope of the Act upto 30.06.1975 and time limit to apply for patta outside the scope of the Act have been extended from 30.06.1973 to 26.12.1973 and upto 30.06.1974 and finally extended upto 30.06.1975. Further, in amended rules published in G.O.1400, CT & RE Department, dated 21.11.1975, the appeal time had been extended without limitation and finally extended as per further amendment to the said rules published in G.O.714 C.T & R.E Dept. dated, 29.06.1987, and that ended on 20.08.1987. According to this rule amendment, the last date of apply for condonation of delay to get patta u/s.11(a) of the Act was fixed as 20.8.1987. The petitioners have not produced any tangible evidence to prove that the predecessor in title has applied for grant of patta outside the scope of the Act, before 20.8.1987.

**9** As per G.O.Ms.No.589 CT & RD Department dated 14.05.1975, the amended rules published in G.O.1400 CT & RE Department, dated 21.11.1975 and finally further amendments to the said rules published in G.O.714 CT & RE Department dated 29.06.1987, the last date to apply for condonation of delay to get patta under Section 11(a) of the Act was fixed as 20.08.1987. The petitioners or their predecessor did not approach the first respondent to get patta under G.O.Ms.No.1300, Revenue Department dated 30.04.1971, before the stipulated time i.e. 20.08.1987 and they approached first respondent only on 10.12.1991.

**10** The DRO, Kancheepuram, in his proceeding in Na.Ka.No.70925/2003/2 dated 17.06.2005 has elaborately given reasons for rejecting the claim of the petitioners, wherein it was stated that even though the petitioners stated that their predecessor were in continuous possession of the subject property and they had been trying to get patta from the year 1963, there is no tangible evidence produced by the petitioners to prove the same. Further it is stated that the DRO conducted personal enquiry on 22.12.2003 and that time also the petitioners did not produce any documents to prove their possession prior to the Inam Abolition Act came into force and still they were in continuous possession of the subject property. Therefore it is clear that the petitioners did not produce any document to prove that they were in possession of the subject property prior to the Inam Abolition Act came into force and they applied for patta before the prescribed time. Hence this Court does not find any perversity in the order of the second respondent.

**11** Under these circumstances, there is no merit in the writ petition and hence the writ petition shall stand dismissed. Consequently connected miscellaneous petitions are closed. No costs.

**24.06.2024**

Index : Yes / No
Speaking Order : Yes / No
Neutral Case Citation : Yes/No
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To

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   Chepauk, Chennai - 600 005.

2. The District Revenue Officer,
   Collector Office, Thaiyar Kullam,
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   Collector Office, Thaiyar Kullam,
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4. The Tahsildhar,
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   Kancheepuram District.

**P.VELMURUGAN. J.**

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**Pre-Delivery Orders in**
**W.P.No.29120 of 2018 and**
**W.M.P.Nos.340507, 34058 & 34062 of 2018**

**24.06.2024**