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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.3267 of 2023
and WMP Nos.3317 and 3318 of 2023

1. R.Jayachandran
2. Jeyakanthi

..Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner of Land Administration,
Ezhilagam,
Chepauk, Chennai 600 005

... 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 2nd respondent pertaining the impugned order dated 20.01.2023 passed in ROC No.K1/51512/2001 and quash the same.



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For Petitioners : Mr.Abudukumar Rajarathinam
Senior Counsel
for Mr.G.Krishnakumar
For Respondents : Mr.A.Selvendran
Special Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 20.01.2023.

2. The case of the petitioner is that on 15.03.1971, the father of the petitioner purchased the subject property from one Perumal Naicker through a registered sale deed. Thereafter, Settlement Officer issued a notice dated 24.01.1973 under Act 30 of 1963 and through proceedings dated 24.12.1999, the Assistant Settlement Officer, Thiruvannamalai, primarily issued patta in favour of the father of the petitioners. Pursuant to the same, on 10.07.2000, the father of the petitioners executed a sale deed in favour of the Government of Tamil Nadu, which was registered as Document No.1577 of 2000 and a portion of the property was conveyed for the purpose of a inner ring road. Thereafter, a claim was made over the property by filing a suit before the competent Civil



Court seeking for the relief of declaration and recovery of possession by a third party and this suit was also dismissed.

3. The further case of the petitioners is that a show cause notice came to be issued by the 2nd respondent dated 21.06.2004 in exercise of power and jurisdiction under Section 6 (c) of the *Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963* (hereinafter referred to as the “**Act 30 of 1963**”). The proceedings was initiated for cancellation of the patta that was issued in favour of the father of the petitioners by the Assistant Settlement Officer, Thiruvannamalai. Ultimately, after nearly 20 years, the impugned proceedings came to be issued by the 2nd respondent dated 20.01.2023 cancelling the patta that was issued in favour of the father of the petitioners and a direction was also given to the Tasildhar to make necessary changes in the revenue records.

4. Heard Mr.Abudukumar Rajarathinam, learned Senior Counsel for Mr.G.Krishnakumar, learned counsel for the petitioner and Mr.A.Selvendran, learned Special Government Pleader for respondents.



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5. The submissions were made primarily on two grounds and they are

:-

(a) The 2nd respondent lacks power and jurisdiction under

Section 6(c) of the Act 30 of 1963. and

(b) The entire proceedings is barred by limitation and that

apart, the 2nd respondent virtually deprived the appellate remedy

that is available to the petitioners before the Tribunal and such

order was passed disregarding the specific power that has been

conferred under the Act.

6. The primary ground which has to be taken into consideration by this Court is as to whether the order passed by the 2nd respondent in exercise of power and jurisdiction under Section 6(c) of Act 30 of 1963 is sustainable. To decide this issue, it will be relevant to extract Section 6 of Act 30 of 1963 hereunder :-

6.Powers of control of the Board of Revenue:- The Board of Revenue shall have power :-



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(a) to give effect to the provisions of this Act

(b) to issue instructions for the guidance of [the Settlement Officers] and Assistant Settlement Officers;

(c) to cancel or revise within each period as may be prescribed any of the orders, acts or proceedings of [the Settlement Officers], other than those in respect of which an appeal lies to the Tribunal.

7. A plain reading of Section 6(c) of the Act 30 of 1963, makes it clear that such suo-motu power can be exercised :-

(a) Where such cancellation or revision is made within the period prescribed.

(b) Where it touches upon the orders, acts or Proceedings of the Settlement Officers and

(c) Only in those cases in respect of which there is no appeal provided to the Tribunal.

8. In the instant case, the patta was granted in favour of the father of



the petitioners by the Assistant Settlement Officer, primarily through proceedings dated 24.12.1999. It will be very relevant to take note of the fact that the father of the petitioners had conveyed a portion of the property to the Government of Tamil Nadu for the purpose of putting up a inner ring road and the same was done through a registered sale deed dated 10.07.2000 registered as document No.1577 of 2000. It is also quite evident that the patta was issued not by the Settlement Officer but it was actually issued by the Assistant Settlement Officer, Thiruvannamalai. As against the order passed by the Assistant Settlement Officer, an appeal lies under Section 11 (3) of the Act within a period of one year from the date of the order for the Government and three months insofar as the other persons, who are aggrieved.

9. Insofar as the Assistant Settlement Officer is concerned, the functions of an Assistant Settlement Officer is dealt with under Section 5 of the Act and it is clearly stated that the Assistant Settlement Officer shall be subordinate to the Settlement Officer and it is the Settlement Officer, who will have the power to revise the orders passed by the Assistant Settlement Officer within the period prescribed other than those in respect of which an appeal lies



to the Tribunal.

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10. The 2nd respondent has exercised power and jurisdiction under Section 6(c) of the Act as against an order passed by the Assistant Settlement Officer against whose order there is an appeal provided to the Settlement Officer and such power has been exercised in the year 2004 and whereas, the proceedings of the Assistant Settlement Officer is of the year 1999. That apart, there is a further appeal before the Tribunal which power has now been conferred on the Commissioner of Land Administration. Thus, the 2nd respondent, who is the Appellate Authority in this case has virtually denied that right to the petitioners and has exercised the power of suo-motu revision which again goes against the language used under Section 6(c) of the Act.

11. I had an occasion to deal with the similar issue in WP No.35303 of 2007 in the case of *[R.Jeyachandran Vs. The State of Tamil Nadu and others]* dated 15.07.2022. The relevant portions are extracted hereunder :-

17. In order to understand the scope of the provision of Section 6(c) of the Act, it will be more gainful to take note of an



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in pari materia provision which was available under the Tamil Nadu Estate (Abolition and conversion into ryotwari) Act 1948.

The provisions under Section 6 of Act 30 of 1963 is in pari materia to Section 7 of that Act. Similarly, Section 11 of the Act 30 of 1963 is in pari materia to Section 15 of that Act. While considering those provisions, a Division Bench of this Court had an occasion to deal with the effect of the same. The findings rendered by the Division Bench in that judgement will have a direct bearing on the issue that is involved in the present writ petition. In view of the same, the relevant portions in the judgement in [Rajathi and another Vs. The Principal Secretary to Commissioner of Land Administration and another] reported in 2013 2 LW 485 are extracted hereunder :~

12. But, however, in the case on hand, it is not the case of the petitioners that suo motu revision cannot be taken by the first respondent exercising the power under clause (c) of Section 7 of the Act without an application before him. The point that has



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been canvassed by the learned counsel appearing for the petitioners is that such power could be exercised in a case other than an appeal remedy is available. In order to appreciate the said contention, it would be useful to extract clause (c) of Section 7 of the Act and the same is extracted hereunder:~

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

(a)

(b)

(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 be Tribunal or of any managers; and

(d) The said provision clearly contemplates that the Board of Revenue shall have the power 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. That means, if the remedy of appeal is provided under the Act to challenge the order of the Assistant Settlement Officer,



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the suo motu revision cannot be taken up exercising power under clause (c) of Section 7 of the Act.

13. In the given case on hand, it is not the case of the respondents that there is no appeal remedy against the order of the Assistant Settlement Officer, Dharapuram. Section 15 of the Act clearly spells out that against the decision of the Settlement Officer, an appeal will lie before the Government. It would be, therefore useful to extract the said provision and the same is extracted hereunder:~

“ 15. Determination of lands in which the landholder is entitled to ryotwari patta under foregoing provisions:~ (1) The Settlement Officer shall examine the nature and history of all lands in respect of which the landholder claims a ryotwari patta under section 12, 13 or 14 as the case may be, and decide in respect of which lands the claim should be allowed.

(2)(a) Against a decision of the Settlement Officer under sub~section (1), the Government may, within one year from the date of commencement of the Tamil Nadu Estates (Abolition and



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Conversation into Ryotwari) Amendment Act, 1954, or from the date of the decision, whichever is later, and any person aggrieved by such decision may, within two months from the date, appeal to the Tribunal;

Provided that the Tribunal may, in its discretion, allow further time not exceeding six months from 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.

(b) The decision of the Tribunal on any such appeal shall be final and not be liable to be questioned in any Court of Law.“

14. A reading of clause (c) of Section 7 of the Act coupled with Section 15 of the Act will make it amply clearly that suo motu revision could be entertained by the first respondent, if there is no appeal remedy available to challenge the order of the Assistant Settlement Officer. In the case on hand, since the



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appeal remedy is available as provided under Section 15 of the Act, in our considered view, as rightly contended by the learned counsel appearing for the petitioners, the suo motu revision will not lie before the first respondent.

15. We may add that the power given to an authority under an Act or Rule has to be exercised strictly only in accordance with the mode provided therein. It cannot be denied that the power clothing with an authority through the legislation has to be exercised within the four corners of its conferment. It cannot be travelled beyond that. The language employed in the provisions of an Act can be interpreted only if there is any ambiguity and the Courts have no power to enter into the field of presumption or assumption. Absolutely there is no possibility to travel beyond what has been set out in the provisions to a statue. Therefore, in our considered view, when clause (c) of Section 7 of the Act clearly spells out that suo motu revision could be exercised for cancelling or revising the order passed by the Settlement Officer other than those in respect of which an appeal lies before the



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Tribunal, leaving the remedy available under Section 15 of the Act, which envisages an appeal, the first respondent has no legal right to entertain suo motu revision, that too, after nearly 11 years from the date of the order of the Assistant Settlement Officer, Dharapuram.

16. The Courts are normally bound to give effect to the plain meaning of the words used in the statute, unless and otherwise such an interpretation leads to some absurd or illogical consequence or is in variance with the intention of the legislature. In this connection, the judgement reported in (2002) 1 SCC 633, Commissioner of Income Tax, Mumbai Vs. Anjum H. Ghaswala and others, more so para 29 of the said judgement is usefully extracted here under:~

“29. Nextly, the Commission has elaborately discussed the object of introduction of Chapter XIX~A in the Act, the history behind the introduction and schematic rationalization of the provisions of Chapter XIX~A brought about through the Finance Act, 1987 to hold that in exercising its power under Chapter XIX~A it has



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almost an unbridled power to arrive at a settlement. This exercise of purposive interpretation by looking into the object and scheme of the Act and legislative intendment would arise, in our opinion, if the language of the statute is either ambiguous or conflicting or gives a meaning leading to absurdity. We do not find any such problem in the provisions of the Act to which we have already referred to....“

17. That apart, it has to be seen that it is not the case of the respondents that the first petitioner has played fraud on the Assistant Settlement Officer, Dharapuram and got patta in her favour.

18. For all the reasons stated above, we are of the considered view that the impugned show cause notice issued by the first respondent exercising power under clause (c) of Section 7 of the Act is liable to be set aside.

18. The Division Bench of this Court in no uncertain terms held that in a case where an appeal remedy is available as



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provided under Section 15 of the Tamil Nadu Estate (Abolition and conversion into ryotwari) Act 1948, the suo~motu power of revision under Section 7(C) of that Act cannot be invoked. In fact, that was a case where the commissioner of land administration had put forth the plea of fraud played by the petitioner before the Assistant Settlement Officer. In the teeth of such a serious allegation, the Division Bench proceeded to consider the scope of invoking the suo~motu revision and held that, the power or authority given under an Act or a Rule has to be exercised strictly only in accordance with the mode provided therein.

19. The above findings of the Division Bench will squarely apply to the facts of the present case. In this case, the order passed by the Assistant Settlement officer dated 19.07.2000 was an appellable order under Section 11 (3) of Act 30 of 1963. In view of the same, the 2nd respondent did not have the power or jurisdiction to invoke the suo~motu revision power under Section 6(c) of the Act. Hence, the impugned order dated 20.12.2002 is



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*illegal and is liable to be interfered by this Court. Accordingly,
the same is hereby quashed.*

12. It is also brought to the notice of this Court that another single Judge of this Court has also relied upon the Judgement of the Division Bench in *Rajathi* case in WP No.26301 of 2009 by order dated 08.03.2022 and had set aside the suo-motu revision power exercised by the authority. The Division Bench Judgement in WA No.1748 of 2015 dated 25.09.2023 was also placed before this Court.

13. It is clear from the above that the 2nd respondent lacks power and jurisdiction under Section 6(c) of the Act, since the requirements were not fulfilled as explained supra.

14. The next issue that was placed for consideration before this Court is the question of limitation. It is not necessary for this Court to independently go into this issue since even under Section 6(c) of the Act, it specifically states that such cancellation or revision of the orders passed by the Settlement Officer



must be made within such period as may be prescribed. The period has been prescribed under Section 11 (3) of the Act and there is no dispute that the proceedings itself was initiated by the 2nd respondent much beyond the period prescribed. The order passed by the Assistant Settlement Officer was on 24.12.1999 and whereas, the proceedings were initiated by the 2nd respondent through show cause notice issued in the year 2004.

15. When it comes to the issue of limitation, the Apex Court has recently held in *[Union of India and another Vs. Jahangir Byramji Jeejeebhoy(d) through his Lr]* reported in **2024 SCC online SC 489** that the question of limitation is not merely a technical consideration or a procedural formality and it involves a substantive right. For proper appreciation, Paragraph Nos.26 and 27 are extracted hereunder :-

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has



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prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging



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over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

16. The other connected issue that was raised is that the 2nd respondent has virtually usurped the appellate remedy available and that the power was exercised other than the manner in which it has been prescribed under the Act. For this purpose, useful reference can be made to the judgement in *[Manohar Lal (Dead) by Lrs Vs. Ugrasen (dead) by Lrs and others]* reported in 2010 11 SCC 557 and the relevant portions are extracted hereunder :-

23. Therefore, the law on the question can be summarised to the effect that no higher authority in the hierarchy or an appellate or revisional authority can exercise the power of the statutory authority nor can the superior authority mortgage its wisdom and direct the statutory authority to act in a particular manner. If the appellate or revisional authority takes upon itself the task of the statutory authority and passes an order, it remains unenforceable for the reason that it cannot be termed to be an order passed under the Act.



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17. Yet another judgement that can be taken note of is the judgement in [*Hussein Ghadially alias M.H.G.A Shaikh and others Vs. State of Gujarat*] reported in *2014 8 SCC 425* and the relevant portions are extracted hereunder :-

21.1. We say so firstly because the statute vests the grant of approval in an authority specifically designated for the purpose. That being so, no one except the authority so designated, can exercise that power. Permitting exercise of the power by any other authority whether superior or inferior to the authority designated by the statute will have the effect of rewriting the provision and defeating the legislative purpose behind the same—a course that is legally impermissible. In Joint Action Committee of Air Line Pilots' Assn. of India v. DG of Civil Aviation [(2011) 5 SCC 435] this Court declared that even senior officials cannot provide any guidelines or direction to the authority under the statute to act in a particular manner.

21.3. Thirdly, because if the statute provides for a thing to be



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done in a particular manner, then it must be done in that manner alone. All other modes or methods of doing that thing must be deemed to have been prohibited. That proposition of law first was stated in Taylor v. Taylor [(1875) LR 1 Ch D 426] and adopted later by the Judicial Committee in Nazir Ahmad v. King Emperor [(1935-36) 63 IA 372 : (1936) 44 LW 583 : AIR 1936 PC 253] and by this Court in a series of judgments including those in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh [AIR 1954 SC 322 : 1954 Cri LJ 910] , State of U.P. v. Singhara Singh [AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2)] , Chandra Kishore Jha v. Mahavir Prasad [(1999) 8 SCC 266] , Dhanajaya Reddy v. State of Karnataka [(2001) 4 SCC 9 : 2001 SCC (Cri) 652] and Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd. [(2008) 4 SCC 755]

The principle stated in the above decisions applies to the cases at hand not because there is any specific procedure that is prescribed by the statute for grant of approval but because if the approval could be granted by anyone in the police hierarchy the provision specifying the authority for grant of such approval



might as well not have been enacted.

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18. It is pellucid from the above judgments that where a hierarchy has been prescribed under an enactment, the power that is exercised must be in the manner prescribed under the Act and if any Appellate authority takes upon himself the task of passing an order, it becomes unenforceable since it is not in line with the hierarchy prescribed under the Act. Similarly, when the statute provides for a thing to be done in a particular manner, it must be done in that manner alone.

19. In the considered view of this Court, the suo-motu power that was exercised by the 2nd respondent is not within the scope of Section 6(c) of the Act, since every other condition that has been mandated under that provision has not been fulfilled. That apart, even on the issue of limitation, the power has been exercised much beyond the period of limitation and also by an authority who has been vested with the appellate power in the place of the Tribunal. Thus in every way, the impugned proceedings of the 2nd respondent dated 20.01.2023 suffers from illegality and it requires the interference of this Court.



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20. In the result, the proceedings of the 2nd respondent dated 20.01.2023 passed in ROC No.K1/51512/2001 is hereby quashed and this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

05.02.2025

Internet : Yes
Index : Yes
Speaking Order
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To

1. The State of Tamil Nadu,
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2. The Commissioner of Land Administration,
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N. ANAND VENKATESH, J.

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