BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 19.08.2025

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.(MD)Nos.17765 & 17766 of 2025
and W.M.P.(MD)Nos.13583 & 13595 of 2025

S.Ganapathy ... Petitioner in W.P.(MD)No.17765/2025

Sivanarayanan ... Petitioner in W.P.(MD)No.17766/2025

Vs

1. The Government of Tamil Nadu,
   Rep. by The Principal Secretary
   to the Government
   Revenue Department,
   Secretariat, Fort St. George,
   Chennai -600 009.

2. The Commissioner of Land Administration,
   Ezhilagam, Chepauk,
   Chennai -05.

3. The Assistant Settlement Officer,
   The Office of the Assistant Settlement Officer,
   Madurai, Now Functioning in the Office of
   Assistant Settlement Officer,
   Chennai South, Chepauk,
   Chennai – 05.

4. The Tahsildhar, Kayathar Taluk,
   Thoothukudi District. ... Respondents in

both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records related to impugned proceedings in ROC No.K2/WRS48/2015 dated 21.04.2025 passed by the 2nd respondent and quash the same and consequently direct the respondent to issue patta in the petitioners' name for the land in Survey Nos.282/5 admeasuring 1.13 acres, 283/9 (41 cents), 283/11 (22 cents) and 283/12 (43 cents) in Vadakku Ellanthaikulam Village, Kayathar Taluk, Thoothukudi District within a time to be determined by this Court.

For Petitioners (In both W.Ps) : Mr.N.Dilipkumar

For Respondents (In both W.Ps) : Mr.M.Ajmalkhan, Addl. Advocate General Assisted by Mr.A.Baskaran, Addl. Govt. Pleader

COMMON ORDER

These Writ Petitions are filed challenging the order passed by the second respondent rejecting the request of the petitioners for issuance of settlement patta on the ground that the applications filed by the petitioners seeking patta are barred under law of limitation.

2. Heard the arguments of Mr.N.Dilipkumar, learned counsel appearing for the petitioners and Mr.M.Ajmalkhan, learned Additional Advocate General assisted by Mr.A.Baskaran, learned Additional Government Pleader appearing for the respondents.

3. The subject properties were purchased by the petitioners under registered sale deeds . It is the specific case of the petitioners that after initiation of settlement proceedings under “The Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948” (hereinafter referred to as “Act 26 of 1948”), the subject properties were wrongly classified as “assessed wet waste lands”. The petitioners submitted representations seeking rectification of the mistake and for issuance of patta in their names. The said representations submitted by the petitioners were rejected by the 2nd respondent on the ground that the petitioners applied for patta under Act 26 of 1948, beyond the period of limitation. The said rejection orders were challenged by the petitioners in W.P.(MD)Nos.5685 & 5684 of 2005. This Court allowed the said Writ petitions and set aside the orders of rejection. The matter was remitted back to the file of second respondent with a direction to consider the representations submitted by the petitioners for issuance of patta afresh without reference to the question of limitation. Again the second respondent has passed an order on 14.02.2013, rejecting the request of the petitioners on the ground of limitation. The second order passed by the second respondent was challenged by the petitioners in W.P.(MD)Nos.4131 and 4132 of 2014. Both these Writ Petitions were allowed by this Court. The relevant observations made by this Court read as follows:

> *"17. After the remand, the second respondent has virtually repeated the very same reasoning in the impugned order dated 14.02.2013 and rejected the claims on the ground that the claims have been made beyond the period of limitation. In the considered view of this Court, this finding given by the second respondent on the face of it is in total violation of the earlier orders passed by this Court. The second respondent has virtually disregarded the findings given by this Court and had stood by the earlier stand. These writ petitions are coming up for final hearing after nearly seven years and therefore, this Court is restraining itself from initiating contempt proceedings against the then officer, who was holding the position of the second respondent. If these writ petitions had come up for hearing immediately, this Court without any hesitation would have initiated contempt proceedings for gross violation of the earlier orders passed by this Court. The impugned order*

passed by the second respondent is liable to be quashed only on the ground that it is in complete violation of the earlier orders passed by this Court.

18. What is sauce for the goose is sauce for the gander. When similarly placed persons, who are none other than the adjoining owners of the properties, also faced the similar problem, where their properties were also wrongly classified as waste lands, they had also filed similar claims before the second respondent. In some of the cases, this Court had passed orders by reiterating that there is no provision which prescribes the time limit to present an application for patta and had directed the second respondent to consider the claim on merits. In such cases, the second respondent has passed orders by allowing the claims made by the concerned owners and granted patta in their favour. The same treatment should be given to the petitioners also and when it came to the petitioners, the second respondent for reasons best known to him once again had applied limitation against the petitioner. Therefore, it is apparent that the impugned order passed by the second respondent also suffers from arbitrariness. On a given set of facts, the parties ought to be treated equally, failing which, it will violate Article 14 of the Constitution of India.

19. In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned order passed by the second respondent dated 14.02.2013 and accordingly, the same is hereby quashed. The matter is remitted back to the file of the second respondent and the second respondent is directed to pass orders on merits by taking into consideration the earlier orders passed by this Court and the *similar orders that were passed in favour of other owners of the property, who are similarly placed like the petitioners and final orders shall be passed within a period of eight weeks from the date of receipt of a copy of this order."*

4. Thereafter, the second respondent passed the impugned order again rejecting the request of the petitioners for issuance of patta. A perusal of the order passed by the second respondent would indicate that the request of the petitioners were again rejected on the ground that the initial representation of the petitioners were filed beyond the cutoff date of 22.07.1987 as fixed by G.O.Ms.No.714 Commercial Taxes and Religious Endowment Department, dated 29.06.1987. Aggrieved by the said order, the petitioners have come before this Court.

5. The learned counsel appearing for the petitioners vehemently contended that in spite of two earlier orders passed by this Court in the Writ Petitions, the second respondent rejected the request made by the petitioners by pointing the question of limitation. The learned counsel further submits that the order passed by the second respondent is utter violation of earlier orders issued by this Court and therefore, the same is liable to be set aside.

6. The learned Additional Advocate General appearing for the respondents would submit that apart from the question of limitation, the second respondent has also considered the other facts, while rejecting the claim of the petitioners. Therefore, the order passed by the second respondent can be sustained on the other grounds mentioned in the impugned order.

7. A perusal of the impugned order would indicate that the request of the petitioners for issuance of patta has been rejected mainly on three grounds:

1. Initial representations of the petitioners were filed beyond the cutoff date as fixed by G.O.Ms.No.714 Commercial Taxes and Religious Endowment Department, dated 29.06.1987:

2. Act 26 of 1948 was repealed and hence, the request for issuance of patta cannot be considered; and

3. The petitioners paid B memos to the Government subsequent to the settlement proceedings and therefore, he is not entitled to seek patta by asserting the title over the property.

8. As far as first point on the ground of limitation is concerned, this Court in earlier orders categorically held that the request made by the petitioners shall be considered without reference to the limitation. If the official respondents are aggrieved by the said findings, they ought have challenged the orders passed in earlier Writ Petitions. It is not in dispute that the order passed by this Court in earlier Writ Petitions, referred supra, had attained finality. Therefore, the first reasoning given by the second respondent, in the impugned order, is against the direction issued by this Court in the earlier Writ Petitions and hence, the same cannot be sustained as earlier orders passed by this Court in W.P.(MD)Nos.5685 & 5684 of 2005 and W.P.(MD)Nos.4131 & 4132 of 2014 had attained finality.

9. As far as the second reason is concerned, Act 26 of 1948 was repealed by State Legislature only in the year 2023 by Act 16 of 2023 and the initial representation of the petitioners seeking issuance of patta was submitted in the year 1999, when the Act 26 of 1948 was very much available. Therefore, the reasoning given by the second respondent that due to repealing of the Act 26 of 1948, the request of the petitioners could not be considered is not acceptable to this Court.

10. Thirdly, the second respondent in the impugned order stated that the petitioners paid B memos to the Government subsequent to the settlement proceedings. Therefore, they are not entitled to issuance of patta. As far as payment of B Memos is concerned, learned counsel for the petitioners by taking this Court to the averments contained in the affidavits submits that payment of B memos by the petitioners to the Government is not within their knowledge. Since the petitioners dispute the payment of B memos to the Government, the said disputed question of fact cannot be conveniently gone into by this Court in these Writ Petitions. Therefore, this Court feels that it would be appropriate to set aside the impugned order and remit the matter back to the file of second respondent with a direction to consider the request of the petitioners afresh without reference to the limitation as held by this Court in the earlier orders.

11. Accordingly, the impugned order passed by the second respondent is set aside and the matter is remitted back to his file with a direction to consider the request of the petitioners for issuance of patta afresh without reference to the limitation as held by this Court in the earlier orders and pass final orders, by affording reasonable opportunity to the petitioners, within a period of twelve (12) weeks from the date of receipt of a copy of this order. It is made clear that the second respondent shall consider the matter on it's own merits without being any way influenced by any of the observations made by this Court in this order, except on the question of limitation.

12. These Writ Petitions are allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.08.2025

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Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No

To

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3. The Assistant Settlement Officer,
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4. The Tahsildhar, Kayathar Taluk,
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S.SOUNTHAR, J.

vsm

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