BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 10.03.2025

DELIVERED ON : 19.03.2025

CORAM

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.(MD)Nos.19196 & 22191 of 2019
and
W.M.P.(MD)Nos.15557, 15559 & 15560 of 2019
and 20529 of 2023

W.P.(MD)No.19196 of 2019:

1.K.Thangasamy
2.T.Chandramohan
3.S.Duraikannu
4.S.Chinnadurai : Petitioner

Vs.

1.The Additional Chief Secretary /
Commissioner of Land Administration,
Chepauk,
Chennai – 600 005.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.

4.The Tahsildar,
Kadaladi Taluk,
Kadaladi,
Ramanathapuram – 614 618.

5.R.Arulravi
6.R.Kamaraj
7.R.Vanchinathan
8.D.Rajaperumal
9.S.Jayapal

10.Sri Giridhar Foods Limited,
No.12, Bharani Street,
Saligramam,
Chennai – 600 093.

11.Marine Containers Limited,
Beach Road,
Tuticorin,
Tuticorin District.

12.Sagayamatha Salterns and Private Limited,
No.3-A1/ Pillaiyar Koil Street,
Meenakshipuram,
West Tuticorin,

Thoothukudi,
Tamil Nadu – 629 002,
Tuticorin. : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Pa.Mu.P5/34205/2018 dated 28.05.2018 passed by the third respondent and quash the same and consequently direct the respondents 3 and 4 to issue patta in the petitioners' name for the property involved in this case.

For Petitioners : Mr.R.Murugappan
For Respondents 1 to 4 : Mrs.K.Malathi
Additional Government Pleader

W.P.(MD)No.22191 of 2019:

C.Rasu : Petitioner

Vs.

1.The District Revenue Officer,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram.

3.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

4.P.Ganapathi

5.Kanagaraj
6.Kantha
7.Rajendran
8.Priya
9.Lakshmi
10.Gomathi
11.Palkani
12.Karmegam
13.Tamilarasi : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 30.07.2018 in Pa.Mu.P6/39536/2016 passed by the first respondent and quash the same and consequentially to direct the first respondent to correct the extent of property in Survey No.287/1, Rettai orani Village, Ramanathapuram Taluk and District as 4 acres 5 cents instead of 3 Acres 50 cents equivalent to 1.41.5 hectares.

For Petitioner : Mr.J.Barathan
For Respondents 1 to 3 : Mr.C.Satheesh
Government Advocate
For Respondents 4 to 8 & 12 : No appearance
For Respondents 9, 10, 11, 13 : Refused

COMMON ORDER
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The Writ Petition in W.P.(MD)No.22191 of 2019, has been filed challenging the order of the first respondent in Pa.Mu.P6/39536/2016 dated 30.07.2018 and to consequently direct the first respondent to correct the extent of property in S.No.287/1 Rettai Orani Village, Ramanathapuram Taluk and District as 4 acres and 5 cents instead of 3 acres and 50 cents. W.P.(MD)No.19196 of 2019, has been filed challenging the order in Pa.Mu.P5/34205/2018 dated 28.05.2018, on the file of the District Revenue Officer, Ramanathapuram District and to consequently direct the respondents 3 and 4 to issue patta in the name of the petitioner. In both these Writ Petitions an interesting question as to whether there is any limitation to seek for rectification of the UDR survey records has arisen for consideration.

2.I have heard Mr.J.Barathan, learned Counsel for the petitioner in W.P.(MD)No.22191 of 2019 and Mr.R.Murugappan, learned Counsel for the petitioner in W.P.(MD)No.19196 of 2019.

3.In view of the said common question arising in both these Writ Petitions, Writ Petitions have been heard together today.

4.Learned Counsel for the petitioner in W.P.(MD)No.22191 of 2019, would submit that the petitioner claims that his predecessors had purchased the property under registered sale deed dated 08.05.1946, under Document No.1516 of 1946. According to the petitioners, during UDR survey, the property has been mistakenly resurveyed as 3 acres 50 cents instead of 4 acres 5 cents which is clearly evidenced from the extent conveyed under the registered sale deed. According to the petitioner, his father was illiterate and therefore, he did not notice the mistake and only when there was a litigation between the petitioner and a third party, the error came to light and the petitioner submitted an application on 11.08.2016 and yet another application on 06.10.2016, seeking rectification of the extent.

5.The grievance of the petitioner is that the extent of 55 cents which has been omitted in the patta of the petitioner has been wrongly included during UDR survey in the property of the successors of Chinnaiah Nadar, whose grandson is cited as the fourth respondent in the Writ Petition.

6.In W.P.(MD)No.19196 of 2019, the case of the petitioners is that an extent of 20.16 hectares in Ilanthaikulam Village, Kadaladi Taluk, Ramanathapuram District was originally owned by one Muniyandi, who had two sons by name M.Karuppan and M.Karuppiah. M.Karuppan pre-deceased his father Muniyandi and the first petitioner is the son of the other son of C.Muniyandi, M.Karuppan. According to the petitioners they were all minors and they were under the guardianship of Muniyandi and their paternal uncle M.Karuppiah and were living as a single family. However, after the death of Muniyandi in 1953, the lands of an extent of 26.56 acres in Old Paimash Nos.344, 345 and 301, correlating to T.S.No.189 of Mookaiyur Village, were wrongly registered in the name of M.Karuppiah alone, though legal heirs of both Karuppan and Karuppiah were the joint owners. Complaining that pattas have been wrongly issued, consequent to errors creeping in during Updating Register Scheme, the petitioners have preferred an appeal to the third respondent. However, said appeal was rejected on the ground that the request was belated and beyond the period of limitation.

7.Therefore, the question in both these Writ Petitions is as to whether there is any limitation period prescribed under the Limitation Act, 1963 or under the Tamil Nadu Patta Passbook Act, 1983 or any other legislation concerned or related to the subject matter, prescribing any time limit for seeking any correction of any errors that has crept in during UDR survey.

8.The learned Counsel for the petitioner Mr.J.Barathan, would submit that under the scheme of the Patta Passbook Act, 1983 the Tahsildar is empowered to issue patta passbook in respect of a Taluk which shall be considered as a unit for the issuance of patta passbook. He would also refer to the proviso to Section 3 (7) which forecloses the right of the Tashildar to issue patta passbook to an owner who has not made an application under Sub-Section (1) of Section 3 and in respect of which owner has been served with notice under sub-section (5). Drawing my attention to Section 12 and 13 of the Patta Passbook Act and the scope of appeal and revision provided thereunder, the learned Counsel would submit that specific time-lines have been provided for challenging the order of the Tahsildar made under the provisions of the Patta Passbook Act and similarly, even for revision, time period has been fixed. He would further submit that the UDR survey was conducted between the years 1986 and 1992 and in and by G.O.(Ms).No.385 dated 17.08.2004, powers were conferred on the District Revenue Officer.

9.Mr.J.Barathan, would further contend that no sky high powers were conferred on the District Revenue Officers but the powers that were given to the District Revenue Officers under G.O.(Ms).No.385 dated 17.08.2004, were very limited and narrow in its scope. He would draw a parallel to the powers of Civil Court under Section 152 of the Code of Civil Procedure and contend that the power conferred under G.O.(Ms).No.385 dated 17.08.2004 was only akin to the power of the Civil Court under Section 152 of CPC.

10. He would further submit that under the Patta Passbook Act, finality is contemplated with the provision under Section 14 to file a suit for declaration, after exhausting the available remedies under the Act, including the appeal and revision remedy under Section 12 and 13 of the Act. The said suit for declaration of any right of land owner is again subject to the law of limitation and there can be no second opinion on this.

11. However, Mr.J.Barathan, would contend that without understanding the scope of the powers conferred under G.O.(Ms).No. 385 dated 17.08.2004, the District Revenue Officers have been routinely entertaining all requests for rectification and even conducting *de novo* enquiry, which is against the scheme of the provisions of Patta Passbook Act, 1983 itself. He would therefore submit that the power of the District Revenue Officer to rectify any errors that had crept in during the UDR survey may have to be restricted only to wrong classification of land which alone is the object and purport of G.O.(Ms).No.385 dated 17.08.2004.

12. The learned Counsel for the petitioner in W.P.(MD)No. 19196 of 2019, Mr.Murugappan, would however contend that the Act does not prescribe any time limit for seeking correction in the UDR records and in the absence of any specific provision, the authorities cannot reject the applications made by owners on the ground of delay. He would therefore, contend that the authorities were well within their right to entertain even belated applications. He would further submit that the revision preferred against the impugned order in W.P.(MD)No.19196 of 2019 dated 31.06.2018 also came to be dismissed on 03.06.2019 citing G.O.(Ms).No.714, Commercial Taxes and Religious Endowments Department dated 29.06.1987 and

G.O.Ms.No.409, Revenue SS 1 (2) Department dated 02.07.2008, which would not in any manner concern the request of the petitioners for correction of the errors in the UDR records. The limitation prescribed under G.O.(Ms).No.714, dated 29.06.1987 as well as G.O.Ms.No.409, dated 02.07.2008 were only relating to exercise of power under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and not relating to Patta Passbook Act for corrections of errors which crept in under the UDR scheme.

13. He would also submit that the petitioners have also explained the delay which had occurred only because of obtaining documents from various departments and Courts. Learned Counsel would therefore, submit that the impugned order rejecting the petitioners' request on the ground of delay has to be necessarily set aside and the matter has to be remitted to the third respondent for fresh consideration, without putting limitation against the petitioners.

14. Learned Additional Government Pleader Mrs.K.Malathi, appearing for the respondents would submit that there is no infirmity in the order rejecting the request of the petitioners in both the writ petitions, citing the delay in seeking rectification of the errors.

Learned Additional Government Pleader would also rely on the provisions of the Tamil Nadu Patta Passbook Act and the scope of G.O.(Ms).No.385 dated 17.08.2004 and contend that there is no infirmity in the impugned orders and seeks for dismissal of the Writ Petitions.

15. At the outset, reliance placed on by the respondents to G.O.(Ms).714 dated 29.06.1987 is falacious. The said Government Order was issued only in respect of abolition of Zamin, Inams and Minor inam land tenures. With the introduction of Act XXVI of 1948, Act 26 of 1963 and Act 30 of 1963, it provided for a final settlement enquiry and any applications for patta could not be entertained after 20.08.1987. However, it is to be seen if the scheme of the Patta Passbook Act and G.O.(Ms).No.385 dated 17.08.2004, have to be read harmoniously.

16. In fact, the learned Counsel would also place reliance on the decision of this Court in ***M/s.W.S.Industries (India) Ltd.,*** *Vs.* ***The District Collector and others*** *reported in* ***2016 SCC Online Mad 8958,*** where this Court dealing with a mistake that was committed during the Updating Register [UDR] scheme, held, referring to the dictum of the Hon'ble Supreme Court in ***Shiv Dass*** *Vs.* ***Union of India*** *reported in* ***AIR 2007 SC 1330,*** that "two circumstances which are always important in such cases are, length of delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice, in taking one course or the other, so far as relates to the remedy" and ultimately held that when there is no plausible explanation as to why the party was silent for more than 10 years, it would only lead to the conclusion that the party was guilty of delay and laches and not entitled to any relief.

17. As rightly contended by Mr.J.Barathan, learned Counsel for the petitioner in W.P.(MD)No.22191 of 2019, the Government Order cannot over ride the Statute or its provisions. However, on a careful reading of G.O.(Ms).No.385 dated 17.08.2004, it is clear that accepting the recommendations of the Commissioner of Survey and Land Records, Special Commissioner and Commissioner of Revenue Administration, the Government Order empowered the District Revenue Officer to conduct detailed enquiry before proceeding to correct or rectify errors that had crept in during UDR survey. In and by the said Government Order, the power conferred on the Deputy Tahsildar was also taken away and vested only with the District Revenue Officer. On a reading of Clause 5 of the said Government Order, it is clear that apart from the powers conferred under Clause 4, additionally, the District Revenue Officers were also directed to look into the errors pertaining to wrong classification of lands. Therefore, it is not as if the District Revenue Officers were vested with powers to correct only clerical errors and classification of lands. Certainly, the District Revenue Officers being the competent authority would be entitled to correct errors that have crept in during the time of UDR survey, which is evident from the phraseology employed in Clause 4 of the G.O.(Ms).No.385 dated 17.08.2004.

18. The provisions of the Patta Passbook Act, giving remedy of appeal and revision and thereafter suit for declaration would have to be read in the context of issuance of patta passbook by the revenue authorities. The appeal and revision proceedings cannot be imparted into an application specifically provided before the District Revenue Officer under G.O.(Ms).No.385 dated 17.08.2004, which has been specifically promulgated for addressing the issues pertaining to UDR scheme. The said Government Order was not even issued with reference to the provisions of the Patta Passbook Act. Merely because the District Revenue Officer has been conferred with powers under the Government Order, it will not automatically mean that the provisions of the Patta Passbook Act would also apply.

19.I, therefore do not see any overlapping of the Government Order with the provisions of patta passbook or the Government Order over-reaching the provisions of the Patta Passbook Act. No time limit is prescribed under G.O.(Ms).No.385 dated 17.08.2004, for seeking corrections or rectifications in the UDR records and the power conferred on the District Revenue Officer is not only limited to wrong classification of lands alone as discussed earlier, in line with Clause 4 and Clause 5 of the said G.O. Moreover, G.O.(Ms).No.385 being an independent Government Order, conferring specific and special powers on an authority acting otherwise under the Patta Passbook Act, 1983 and there being no limitation prescribed unlike in the case of G.O.(Ms).No.714, the application for rectification cannot be rejected on the ground of limitation. I am unable to sustain the impugned orders in both these writ petitions, rejecting the requests for rectification on the ground of belated applications being made.

20. No doubt, this Court following the dictum of the Hon'ble Supreme Court, in ***W.S.Industries*** case, had found that delay and laches would be a material factor to be considered. However, it does not once and for all foreclose the right of land owners. When plausible explanation is offered for the delay, then, the question of delay cannot be put against the land owner concerned. In both these cases, the petitioners have explained the reason why the application for rectification could not have been made earlier and the same is certainly reasonable and acceptable. Moreover, when the G.O. itself does not prescribe any time limit, there can be no fetters placed for making an application seeking rectification of UDR records.

21. Before parting, I would be failing in my duty, if I do not place on record my appreciation for Mr.J.Barathan, who despite appearing for the petitioner in W.P.(MD)No.22191 of 2019, fairly placed all materials before me, consciously aware of the fact that the same may adversely affect the interest of the petitioner. Mr.J.Barathan's approach in assisting the Court is placed on record and also appreciated.

22. In fine, these Writ Petitions are allowed and the impugned orders are set aside and the matter is remitted to the District Revenue Officer, Ramanathapuram District, for fresh consideration and to pass orders afresh, after affording reasonable opportunity to all the parties interested. The said exercise shall be concluded within a period of eight [8] weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.03.2025

Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR

To

1.The Additional Chief Secretary /
Commissioner of Land Administration,
Chepauk,
Chennai – 600 005.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The District Revenue Officer,
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P.B.BALAJI., J.

MR

PRE-DELIVERY COMMON ORDER MADE IN W.P.(MD)Nos.19196 & 22191 of 2019

19.03.2025