(2017) 12 MAD CK 0003

In the Madras High Court

Case No : 21240 of 2017

S.Lakshmi & Ors APPELLANT

Vs

The Principal & Ors RESPONDENT

Date of Decision : 18-12-2017

Acts Referred:

Citation : (2017) 12 MAD CK 0003

Hon'ble Judges : K.Ravichandrabaabu

Bench : SINGLE BENCH

Advocate : K.Ravichandrabaabu

Judgement

1. The petitioner seeks for a mandamus directing the first respondent to conduct enquiry on the petitioners representation dated 27.01.2017 with

regard to issue of Ryotwari patta in favour of the petitioners in respect of the property comprised in S.No.55/3, now co-relating to T.S.No.34 of

Block 57 to an extent of 0.17 cents situate at Koyambedu Village as Anadhenam.

2. It is claimed by the petitioners that the subject matter land was classified as Anadhenam without offering an opportunity to put forth their case

and without issuing any notice in a manner known to law, more particularly, when these petitioners are in possession and enjoyment of the subject

matter land for long number of years. Therefore, the petitioners made the above representation for grant of Ryotwari patta in respect of the subject

matter land.

3. The above claim of the petitioners is opposed by the respondents. In their counter affidavit, it is stated that the said classification was made 56

years ago and therefore, the present petitioners cannot make their appeal and as such, the appeal is barred by limitation in view of

G.O.Ms.No.714 Commercial Taxes and Religious Endowment Department dated 29.06.1987 wherein such appeal has to be filed within a period

of 30 days i.e., from 20.08.1987, the date on which the said G.O. came into force for claiming issuance of patta.

4. Heard both sides.

5. It is seen that what is sought for by the petitioners through their representation is for grant of Ryotwari patta. They have not preferred any appeal

against any order. This Court has already considered the same issue in W.P.No.16834/2016, wherein at paragraph Nos. 5 and 6 it has been

observed as follows:

5. It is seen from the respective contentions of the parties that the impugned order was passed by the first respondent to reject the

claim of the petitioners purely on the sole reason of limitation and not on any other grounds on merits. According to the first

respondent, the claim made by the petitioner is by way of an appeal. The very same issue was considered by this Court in the above

said decision of this Court wherein at paragraph Nos.10 and 11, it has been observed as follows:

10. Now, the crux of the question involved in these matters is whether there is any time limit prescribed under any provisions of Act

26 of 1948 for claiming the relief of grant of pattas. The fact remains that there is no time limit fixed either under the provision

u/s.11(a) of the Act 26 of 1948 or the rules framed there under in G.O.Ms.No.2043 revenue dated 05.08.1949. The perusal of the

impugned orders passed by the1st respondent 12.01.2009 reveals that the 1st respondent solely placed reliance on G.O.Ms.No.714

(Commercial Taxes and Reigious Endowments) department dated 29.06.1987 for holding that the petitioners have not preferred the

appeals within the stipulated period o 30 days from 22.07.1987, the date on which the said Government Order came into force for

claiming the issue of pattas.

11. A perusal of the said G.O.Ms.No.714 dated 29.06.1987 makes it crystal clear that the said order deals in respect of prescription

of time limit for preferring appeals and revisions as per the amendment made to various rules. it is also pertinent to note that as far as the cases on hand are concerned, the petitioners preferred only the original applications seeking for the relief of grant of pattas and by

no stretch of imagination, the said applications could be construed to be an appeal. Therefore, this court has no hesitation to hold that

G.O.Ms.No.714 (CT & RE) Department dated 29.06.1987 is not at all applicable to the facts of the instant cases and the 1st

respondent has wrongly placed reliance on such Government Order for setting aside the orders passed in favour of the petitioners by

the Assistant Settlement Officer, Tiruvannamalai for granting the relief of patta in their favour. It is needless to state that there is

absolutely no statutory rule or provision available prescribing any time limit for claiming grant of patta.

6. As it is contended by the petitioners that they have not filed any appeal and what was filed on 02.11.2015 is the original

application itself, this Court is of the view that the above decision made by this Court squarely applies to this case as well and

consequently, the first respondent is not entitled to rely on G.O.Ms.No.714 to reject the claim of the petitioner only on the ground of

limitation. However, insofar as the merits of the claim of the petitioners seeking for ryotwari patta is concerned, it is for the first

respondent to consider such claim on its own merits and pass orders in accordance with law. Accordingly, this Writ petition is

allowed and the impugned order dated 04.01.2016 is set aside and the matter is remitted back to the first respondent to consider the

claim of the petitioners and pass orders on merits and in accordance with law after giving due opportunity of hearing to the

petitioners. Such exercise shall be done by the 1st respondent within a period of twelve weeks form the date of receipt of a copy of

this order. No costs. Consequently, connected miscellaneous petition is closed.

6. In view of the above findings rendered in the above case which are applicable to the facts of the present case as well, I am of the view that the

respondents are not entitled to reject the claim of the petitioners on the ground of limitation. Therefore, it is for the respondents to consider the

representation of the petitioners and pass orders on the same on merits and in accordance with law without reference to the period of limitation. It is once again made clear that this Court has not expressed any view on the merits of the claim made by the petitioners as it is for the respondents to

consider and decide. Such exercise shall be done by the respondents within a period of twelve weeks from the date of receipt of a copy of this

order. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.