IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.28404/2013 & MP.Nos.1 to 3/2013

R.Ashok Kumar ..Petitioner

Versus

1.The Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai-5.

2.The District Revenue Officer Krishnagiri.

3.The Assistant Director of Survey and Land Records, Krishnagiri.

4.The Tahsildar Hosur Taluk, Krishnagiri District.

5.M.Anuma Reddy .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the 2nd respondent issued in Na.Ka.D8.5319/2012 dated 26.11.2012 as confirmed by the 1st respondent vide his letter No.K4/1903/2013 dated 30.08.2013, quash the same and consequently, direct the respondents to hold fresh enquiry and pass appropriate ordres after hearing both sides on merits and in accordance with law within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharathakumar
For RR 1 to 4 : Mr.S.Gunasekaran, GA

For R5 : Mr.J.Sudhakaran

ORDER

Heard Mr.R.Bharathikumar, learned counsel appearing for the petitioner ; Mr.S.Gunasekaran, learned Government Advocate appearing for the respondents 1 to 4 and Mr.J.Sudhakaran, learned counsel appearing for the 5th respondent and perused the materials available on record.

2.The petitioner has challenged the order passed by the District Revenue Officer/2nd respondent herein, dated 26.11.2012 and the order passed by the Secretary and the Commissioner of Land Administration/1st respondent herein, dated 30.08.2013.

3.The matter concerns issuance of patta in respect of the lands in S.Nos.6 and 7 of Kadirigamadinna Revenue Village, Hosur Taluk, Krishnagiri District. The petitioner filed an application before the Tahsildar, the competent authority, who considered matter, after due enquiry and by proceedings dated 20.07.2012, sub-divided the property and granted patta. The 5th respondent, instead of filing an appeal as against the order before the Revenue Divisional Officer, has straightaway approached the District Revenue Officer and the District Revenue Officer by order dated 26.11.2012, cancelled the sub-division granted by the Tahsildar in favour of the petitioner. This order was passed without notice to the petitioner and without conducting any enquiry. Before approaching this Court challenging the order, the petitioner approached the 1st respondent, being the Appellate Authority. However, the 1st respondent, merely directed the petitioner to approach the Tahsildar and seek the remedy. Therefore, the petitioner is before this Court, challenging both the orders.

4.In the interregnum, the petitioner has also filed a suit in OS.No.293/2013 and the same is pending before the Sub Court, Hosur, wherein the petitioner has prayed for a decree of permanent injunction. The petitioner would also submit that the impugned proceedings have also been stayed by this Court vide order dated 11.10.2013.

5.Admittedly, the District Revenue Officer is not the comptent authority to exercise the appellate powers as against the orders passed by the Tahsildar in exercise of his powers under the Patta Passbook Act. If the 5th respondent is aggrieved by the order of the Tahsildar, he ought to have approached the Revenue Divisional Officer instead of approaching the District Revenue Officer. Even if such an application is filed before the District Revenue Officer, the District Revenue Officer could not have passed any order adversely in the interest of the petitioner, without notice to the petitioner. Therefore, on all counts, the impugned order dated 26.11.2012 is illegal and without jurisdiction. When the petitioner approached the appellate authority, the appellate authority by virtually abdicated his powers and directed the petitioner to go before the Tahsildar, who had already passed an order of sub-division. Therefore, the order passed by the 1st respondent dated 30.08.2013 is also vitiated by non-application of mind.

6.Accordingly, the writ petition is allowed and the impugned order passed by the 2nd respondent dated 26.11.2012 and the order passed by the 1st respondent dated 30.08.2013 are quashed. No costs.

7.The 5th respondent is given liberty to file an appeal before the Revenue Divisional Officer. If such an appeal is filed, the Revenue Divisional Officer, Hosur shall issue notice to the petitioner as well as to the 5th respondent, hear the parties in person and pass a reasoned order on merits and in accordance with law.

8.Till final decision is taken by the appellate authority in terms of the above direction, the revenue entry shall be in accordance with the proceedings of the Tahsildar in Na.Ka.No.8148/2012/G1 dated 20.07.2012. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP
To
1.The Principal Secretary and Commissioner
of Land Administration, Chepauk,
Chennai-5.

2.The District Revenue Officer
Krishnagiri.

3.The Assistant Director of Survey and Land
Records, Krishnagiri.

4.The Tahsildar
Hosur Taluk, Krishnagiri District

+ 1 cc to Mr.R. Bharathkumar, Advocate SAr.6860
+ 1 cc to Mr.J. Sudhakaran, Advocate Sr.6844
+ 1 cc to Government pleader Sr.6947

WP.No.28404/2013

CTK(CO)
Eu 17.02.15