IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.27721 of 2012

and M.P.Nos. 1 to 3 of 2012

1.C.Tamilselvan
2.C.Sundarraj .. Petitioners

Vs

1.The Sub Collector,
Pollachi.
2.The Tahsildar,
Pollachi Taluk Office,
Pollachi. .. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records of the first respondent issued in Ni.Mu.533/2011/A1 dated 22.03.2012 quash the same and consequently, direct the 2nd respondent to transfer the patta in favour of the petitioners in respect of 10 cents of land comprised in natham old Survey No.361/A1A new Survey No.471/9 situate at Kappalankarai Village, Pollachi Taluk, Coimbatore District.

For Petitioner : Mr.R.Bharath Kumar
For Respondents : Mrs.M.E.Raniselvam
Addl.Govt.Pleader.

O R D E R

The lands comprised in S.F.No.361/A1A, (New Survey No.471/9) measuring an extent of 10 cents in Kappalankarai Village, Pollachi Taluk, Coimbatore District, was originally allotted to one T.Ponnusamy and Patta No.89/75 was issued by the Tahsildar, Pollachi. The petitioner had ultimately purchased the said property through a Sale Deed dated 27.06.2011, registered vide Document No.2116/2011 on the file of the Sub Registrar, Negamam.

2. Pursuant to the purchase, the first petitioner has made a representation dated 08.05.2012 to the District Collector and in

turn the first respondent forwarded the same to the District Revenue Officer, Coimbatore, seeking issuance of patta. On the other hand, the first respondent had cancelled the patta by an order dated 22.03.2012. Aggrieved against the said cancellation order, the petitioner is before this Court.

3. Heard Mr.R.Bharath Kumar, learned counsel appearing for the petitioner and Mrs.M.E.Raniselvam, learned Additional Government Pleader appearing for the respondents.

4. Though the petitioners had raised various grounds in the writ petition touching upon the merits of the case and challenging the cancellation, one of the grounds raised in the writ petition is that the first respondent is only an Appellate Authority as per section 12 of the Tamil Nadu Patta Passbook Act, 1983 and the rules made thereunder and hence, the first respondent had usurped the powers of the second respondent and passed the impugned order.

5. On the other hand, the learned Additional Government Pleader would submit that since the second respondent is the competent Authority under the Patta Passbook Act for issuance of patta, he may be directed to conduct an enquiry as contemplated under the Act and consider issuance of patta in the name of the petitioner, after carrying out the necessary modification of the relevant entries in the Patta Pass Book.

6. The learned counsel for the petitioner would also rely upon the Judgment of this Court reported in 2012 (3) CTC 823, T.R.Dinakaran vs. The Revenue Divisional Officer, Aruppukottai and 9 Others, wherein it has been held that the Revenue Divisional Officer is only an Appellate Authority under Patta Pass Book Act and that the Tahsildar is the Competent Authority under Section 10 for modifications of the relevant entries in the Patta Pass Book. It is useful to extract relevant paragraph Nos.15 & 16, which reads as follows:

> "15. From the reading of the above said provisions under the Tamil Nadu Patta Pass Book Act, 1983 and the Rules made thereunder, it could be seen that the Tahsildar is the Competent Authority under Section 10 for modifications of the relevent entries in the Patta Pass Book and such modifications are also possible only under the following circumstances, namely (i) by reason of the death of any person; or (ii) by reason of the transfer of interest in the land ; or (3) by reason of any other subsequent change in circumstances. Therefore, the Tahsildar is empowered to make modification of entry in the Patta Pass Book only under those three circumstances as referred

above. Even for making such modification based on application filed by the person, the Tahsildar is bound to give reasonable opportunity to the parties concerned to make their representations either orally or in writing. Thereafter, the Tahsildar shall pass an order accordingly, and also make such consequential changes in the Patta Pass Book as appears to be necessary for giving effect to his order. If the Tahsildar decides that there is no necessity for effecting any modification, he shall reject the application seeking for modification.

16.Section 12 of the said Act contemplates an Appeal against an order made by the Tahsildar under the said Act. Rule 14 of the Tamil Nadu Patta Pass Book Rules, 1987, states that the Revenue Divisional Officer is the Appellate Authority to hear the Appeal to be preferred under Section 12. Section 13 contemplates further Revision to the Revenue Divisional Officer either on the application of a party or in his own motion."

7. The above said findings of the learned Single Judge squarely applies to this case and as rightly pointed out by the learned counsel for the petitioner, the first respondent has passed the impugned order without any jurisdiction. Hence the impugned order is liable to be set aside and is accordingly, quashed.

8. The petitioner is directed to make a fresh application for carrying out the necessary modifications in the Patta Pass Book to the second respondent and on receipt of such application, the second respondent shall conduct a proper enquiry as contemplated under the provisions of the Patta Pass Book Act and carry out the necessary modifications. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

1.The Sub Collector,
Pollachi.
2.The Tahsildar,
Pollachi Taluk Office,
Pollachi.

+1cc to Mr.R. Bharath Kumar, Advocate, S.R.No.65540
+1cc to the Government Pleader, S.R.No.65849

mu(CO)
md(20/12/2016)

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