BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P(MD)No.12427 of 2015

M.Muthu ..Petitioner

Vs

1.The District Revenue Officer,
Sivagangai District.
2.The Revenue Divisional Officer,
Sivagangai District.
3.The Tahsildar,
Devakottai,
Sivagangai District. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in O.Mu.A.1/7212/2013 issued by the 3rd Respondent dated 14.11.2014, quash the same and consequently, direct the 3rd respondent to issue patta to the petitioner following G.O.Ms.No.854 (Revenue) dated 30.12.2006 and G.O.Ms.No.34 (Revenue) dated 23.01.2008.

For Petitioner :Mr.D.Geetha
For Respondents :Mr.K.Mahesh Raja
Government Advocate

ORDER

The petitioner has approached this Court seeking quashment of the proceedings of the third respondent in O.Mu.A.1/7212/2013 dated 14.11.2014, and consequently, to direct the 3rd respondent to issue patta to the petitioner following G.O.Ms.No.854 (Revenue) dated 30.12.2006 and G.O.Ms.No.34 (Revenue) dated 23.01.2008.

2.In consideration of the petitioner's representation for grant of patta in Survey No.255/14, Sirumaruthur Group, Devakottai Taluk, the third respondent passed an order on 14.11.2014, rejecting the claim of the petitioner on the ground that S.No.255/14 is part of water body and therefore, no patta could be issued. However, the case of the petitioner is that he is seeking grant of patta only in respect of S.No.255/20, which is not part of the water body.

3.Ms.D.Geetha, the learned counsel appearing for the petitioner would draw the attention of this Court to the proceedings of the first respondent dated 18.07.2014 addressed to the second respondent Revenue Divisional Officer and the proceedings of the second respondent dated 20.09.2014 addressed to the third respondent Tahsildar, stating that the claim of the petitioner could be considered favourably in terms of the Patta Pass Book Act and would submit that there was already recommendations in his favour both by the District Revenue Officer and Revenue Divisional Officer.

4.While matter stood thus, without considering the claim of the petitioner in proper perspective and without regard to correct survey number, the third respondent has mechanically passed an order on 14.11.2014, rejecting the claim of the petitioner. It could be seen from the order that the third respondent has not considered the claim of the petitioner in proper perspective and the impugned order therefore, suffers from non-application of mind. There was also no reference to the recommendations made by the Revenue officials, recommending the case of the petitioner.

5.The third respondent has filed a counter statement. The learned Government Advocate reiterated the averments made in the counter affidavit stating that the order passed by the 3rd respondent is correct and no interference is called for.

6.I have given my anxious consideration to the pleadings and the materials on record and the submissions made on behalf of the counsel appearing for the parties.

7.I am of the considered view that the impugned order dated 14.11.2014 is per se un-sustainable for the simple reason that the rejection of the petitioner's claim was not with reference to the survey number under the occupation of the petitioner but in regard to some other survey number viz., 255/14 as mentioned in the impugned proceedings. In such circumstances, the order passed by the third respondent has to be interfered with.

8.Accordingly, the Writ Petition is allowed and the impugned proceedings of the third respondent in O.Mu.A.1/7212/2013 dated 14.11.2014, is set aside and the matter is remanded to the third respondent for fresh consideration of the claim of the petitioner for grant of patta in proper perspective with reference to Survey No.255/20, after taking note of the proceedings of the 1st respondent dated 18.07.2014 and the proceedings of the 2nd respondent dated 20.09.2014 and pass a reasoned order within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-
Assistant Registrar(AD.I)

/TRUE COPY/

Sub Assistant Registrar

To

1.The District Revenue Officer,
  Sivagangai District.

2.The Revenue Divisional Officer,
  Sivagangai District.

3.The Tahsildar,
  Devakottai,
  Sivagangai District.

+1cc to special Government Pleader SR.No.53981
+1cc to M/s.D.Geetha, Advocate SR.No.53565

sj
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W.P(MD)No.12427 of 2015
21.04.2017