



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.01.2017
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P(MD)No.6694 of 2014

and

M.P(MD)Nos.1 and 2 of 2014

R.Brindha

.. Petitioner

vs.

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thoothukudi District.

2.The Thasildar,
Thoothukudi,
Thoothukudi District.

3.L.Punnavanakkatti

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus to call for the records of the first respondent vide proceedings in Na.Ka.A1/4525/2013 dated 14.02.2014 and quash the same as illegal and without jurisdiction and consequently direct the second respondent to conduct fresh enquiry by affording opportunity to the petitioner in accordance with law.

For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader
for R1 and R2

Mr.D.Sirininivasa Raghavan for R3

O R D E R

This writ petition is filed challenging the order of the first respondent, dated 14.02.2014, wherein and whereby the application filed by the third respondent herein for grant of patta, has been considered by recording the name of the third respondent and others in the joint patta.

2.The main grievance of the petitioner herein is that when an application is made by the third respondent for grant of patta before the second respondent/Tahsildar, he himself should have applied on such application without referring such application to the first respondent, who in turn passed the present impugned order. In other words, the grievance of the



petitioner is that by referring the application to the first respondent, one chance of appellate remedy is taken away.

3. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

4. It is not in dispute that the third respondent approached the Tashildar, namely, the second respondent and sought for grant of patta in respect of the land under dispute. It is also not in dispute that the petitioner is objecting for grant of such patta in favour of the third respondent and others. However, the second respondent instead of considering the application of the third respondent and passing the order thereon on merits and in accordance with law, seems to have referred the matter to the first respondent, who in turn passed the impugned order by exercising his power, as if, the same is done, as the original authority. Needless to say that when the first respondent is an appellate authority, he ought not to have considered the application and on the other hand, should have directed the second respondent himself to decide the application on merits.

5. Now before this Court, the learned counsel for the petitioner as well as the learned counsel for the third respondent fairly submitted that the matter may be remitted back to the second respondent/Tahsidhar for considering the application of the third respondent afresh and passing orders thereon on merits. Accordingly, the impugned order of the first respondent is set aside without expressing any view on the merits of the matter and the matter is remitted back to the second respondent for considering the application of the third respondent for grant of patta and pass orders on the same on merits and in accordance with law also after giving due opportunity of hearing to the petitioner. Needless to say that both parties are at liberty to raise all their contentions before the second respondent, who in turn is directed to consider those contentions and pass orders on the application on merits and in accordance with law, uninfluenced by any of the observations made by the first respondent in the impugned order. Such exercise shall be done by the second respondent within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above observation, this writ petition is disposed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar



To

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thoothukudi District.

2.The Thasildar,
Thoothukudi,
Thoothukudi District.

+1cc to Mr.P.Pethu Rajesh,Advocate sr no 1902

+1cc to M/s D.Srinivasraghavan, Advocate Sr no 2298

+1cc to Special Government pleader 2269

skn

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