

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 23.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.19451 of 2013
and
M.P. (MD) .No.1 of 2013

C.Sivalingham

Vs.

... Petitioner

1. The Principal Secretary/Commissioner
of Land Administration,
Chepauk, Chennai - 600 005.
2. The District Revenue Officer,
Tuticorin District,
Tuticorin.
3. The Revenue Divisional Officer,
Tiruchendur - 628 215.
4. The Tahsildhar,
Sathankulam Taluk,
Sathankulam,
Tuticorin District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceeding in Rc.No.F3/12083/2013, dated 26.07.2013, on the file of the first respondent herein and to quash the same and direct the first respondent to dispose of the Revision Petition dated 06.05.2013 made by the petitioner to the first respondent against the order No.A5/8765/2005, dated 06.03.2013, on the file of the second respondent, on merits, within a time frame fixed by this Court.

For petitioner

: Mr.N.Subramanian

For respondents

: Mr.M.Govindan

Special Government Pleader

**O R D E R**

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

The Writ Petitioner suffered an order dated 30.04.2007 in proceedings No.D1/68067/06, at the hands of the District Collector, Tuticorin District, Tuticorin.

2. The said order was for cancellation of assignment of patta issued in favour of the writ petitioner. This was challenged by the writ petitioner herein by filing an appeal petition dated 06.05.2013 before the Commissioner of Land Administration.

3. In the meanwhile, the third respondent herein issued eviction order under the provisions of the Tamil Nadu Land Encroachment Act, 1905. The first respondent, acting under erroneous impression that the eviction order passed under the provisions of the Tamil Nadu Land Encroachment Act has been challenged by the petitioner, rejected the present appeal filed against the cancellation of assignment of patta, as not maintainable. What was before the first respondent was not an appeal against the eviction order. The first respondent misdirected himself on facts and passed the impugned order. It is therefore, set aside. The matter is remitted to the file of the first respondent to pass fresh orders in accordance with law. If the appeal petition has been taken back by the writ petitioner, he shall resubmit the same to the first respondent and the first respondent is directed to take the same on file and pass orders in accordance with law within a period of three months from the date of receipt of appeal petition from the writ petitioner.

4. The Writ Petition is allowed as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary/Commissioner
of Land Administration,
Chepauk, Chennai - 600 005.

2. The District Revenue Officer,
Tuticorin District, Tuticorin.



3. The Revenue Divisional Officer,
Tiruchendur - 628 215.

4. The Tahsildhar,
Sathankulam Taluk, Sathankulam,
Tuticorin District.

+1cc to M/S. N.SUBRAMANIAN, Advocate, SR.No.74762.

+1cc to Special Government Pleader, SR.No.74511.

ORDER MADE IN
W.P. (MD) No.19451 of 2013
23.08.2017

km

SDS/SKN:RSK/SAR 1/25.09.2017/3P/7C