

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 12.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. Nos.26995 and 26996 of 2005
AND WPMP.29423 AND WPMP.29425

C.Venkatasubramanian ... Petitioner in W.P.No.26995/2005

V.Prakash ... Petitioner in W.P.No.26996/2005

versus

The Tahsildar,
Salem ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari, calling for records relating to the order passed by the respondent in Mu.Mu.5485/2005 (A5) dated 21.3.2005 and quash the same.

For petitioners ... Mr.R.Nalliyappan
For respondents ... Ms.R.Janaki, A.G.P.

COMMON ORDER

Cancellation of patta by the respondent vide proceedings dated 21.3.2005 is under challenge in the present Writ Petitions.

2. The learned counsel for the Writ Petitioners states that the petitioners are the owners of the property described in the Writ Petitions. Patta standing in the name of petitioners had been cancelled by the respondent vide proceedings dated 21.3.2005, without even issuing any notice and providing opportunity to the petitioners. Thus, the impugned order is in violation of the principles of natural justice.

3. This Court is of the opinion that the Patta Passbook Act, 1983, provides for an appeal against the order passed by the original authority viz., the Tahsildar. Undoubtedly, the impugned order is a nonspeaking one and reasons are not furnished for cancelling the patta. Thus, the order deserves to be reviewed. However, this Court cannot review the same in the present Writ Petition as the adjudication requires production of original documents and adducing of evidence by respective parties to the dispute.

When complex facts and circumstances are raised in the Writ Petition, the same cannot be adjudicated by the High Court under Article 226 of the Constitution of India. All such disputed facts and circumstances are to be adjudicated by producing original documents and by adducing evidence by the respective parties. In this view of the matter, the petitioners are at liberty to file an appeal before the Appellate Authority under the provisions of the Patta Passbook Act, 1983. In the event of filing any such appeal by the Writ Petitioners, the same shall be adjudicated by affording reasonable opportunity to all the parties concerned and a decision shall be taken in accordance with law.

4. This being the principles to be followed and the petitioners having not exhausted the statutory remedy available under the provisions of the Act, this Court cannot waive the remedy, as the Appellate Authority is exercising quasi judicial powers and all the legal grounds raised by the petitioners in this Writ Petition shall be adjudicated by the Appellate Authority. Accordingly, the Writ Petitions stand dismissed. No costs. Consequently, W.P.M.P.Nos.29423 and 29425 of 2005 are closed.

Sd/--

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Tahsildar,
Salem

+1 CC TO GOVERNMENT PLEADER SR.NO. 86696

W.P. Nos.26995 and 26996 of 2005

A.SK(21/01/2019)

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