IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2018

CORAM

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

W.P.No.702 of 2013
and M.P.No.1 of 2013

Hima Bindhu ... Petitioner

Vs.

1. The Revenue Divisional Officer,
Ponneri, Thiruvallur District.

2. The Tahsildar,
Ponneri Taluk, Ponneri,
Thiruvallur District.

3. Gunnam Veer Raju ... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records in connected with the impugned notice issued by the 1st respondent in Na.Ka.No.3950/2012/A1 dated 14.11.2012 and quash the same and further direct the 2nd respondent to issue the patta in favour of the petitioner.

For Petitioner : Mr.S.Siva Kumar

For 1st and 2nd Respondents : Mr.R.S.Selvan
Government Advocate

For 3rd Respondent : No appearance

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O R D E R

The enquiry notice issued by the 1st respondent/ Revenue Divisional Officer, Ponneri, calling for the writ petitioner to participate in an enquiry to be conducted based on the complaint given by (i) Mr.John and (ii) Mr.Mhark, is under challenge in this Writ petition.

2. The learned counsel appearing for the writ petitioner states that the complaint filed by the afore said persons is highly belated as it was filed after a lapse of more than two decades. Thus, the very issuance of enquiry notice by

the Revenue Divisional Officer to conduct an enquiry is untenable. This apart, the learned counsel states that the petitioner is the absolute owner of the property comprised in Survey No.1010/1 measuring an extent of 1.47 acres, situated in Ponneri Taluk, Vallur Village, which was purchased by one Mr.Gunnam Veeraraju through his power agent D.Vinoth Kumar, by way of a registered sale deed dated 05.08.2009, registered as document No.5457 of 2009 in the office of the Sub Registrar, Thiruvortiyur. Thus, the writ petitioner is the absolute owner of the property, and therefore, the complaint now filed after lapse of many years cannot be entertained at all.

3. The learned Government Advocate appearing on behalf of the respondents 1 and 2 submitted a report before this Court, wherein, it is stated that certain forged documents were also filed by the complainant and to verify the factual details, elaborate enquiry has to be conducted in respect of grant of patta to the parties concerned. Therefore, the first respondent has proposed to conduct an enquiry in this regard and as such, issued notice to the writ petitioner vide impugned proceedings dated 14.11.2012 asking him to appear on a particular date (i.e on 17.12.2012) along with documents in his possession.

4. The learned counsel appearing for the respondent submits that the writ petitioner appeared before the respondent, and thereafter, he has preferred the present Writ Petition. However, the writ petitioner is not cooperating for conclusion of the enquiry.

5. No writ proceedings can be entertained against the enquiry notice in a routine manner. Judicial Review in this regard is certainly limited. Writ proceedings against the initial notice shall be entertained if the same has been issued by an incompetent authority having no jurisdiction or an allegation of mala fides are raised or if the same is in violation of the statutory rules in force. Even in case of raising an allegation of mala fides, the authority against whom such an allegation is raised has to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of the legal grounds, no writ can be entertained against the enquiry notice.

6. The learned counsel appearing for the writ petitioner states that Revenue Divisional Officer has no jurisdiction to conduct the enquiry.

7. This Court is of the opinion that original patta was granted by the Tahsildar concerned. Thus, in the event of finding out any fraudulent documents or complaint in respect of grant of patta, the Revenue Divisional Officer has got power to

conduct enquiry and adjudicate the same by affording opportunity to the parties and decide the matter on merits in accordance with law. The power conferred to the Revenue Divisional Officer in this regard cannot be disputed. The writ petitioner is bound to participate in the enquiry to be conducted by the Revenue Divisional Officer by submitting the documents and adducing evidences in order to establish his rights for grant of patta. Thus, the very point of jurisdiction raised herein is not in accordance with law and the same cannot be considered in this regard. Intermittent intervention in the quasi judicial proceedings are not preferable. When an enquiry is proposed to be conducted by the statutory authorities, the Constitutional Court shall not restrain them from proceeding with the quasi judicial enquiry in a routine manner. The authorities competent on initiation of the enquiry proceeding must be allowed to conclude the same in accordance with law and the same has to reach its logical conclusion and intermittent intervention are certainly not preferable. Whenever enquiry is proposed to be conducted by quasi judicial authority, the constitutional Court normally will not restrain them from discharging their function. By doing so, no useful purpose would be served and the respective parties will also lose their rights to establish the case by submitting explanation and adducing evidences before the competent authorities.

8. This being the principles to be followed, this Court is of an opinion that the present writ petition filed challenging the very enquiry notice deserves no merits consideration. If at all, the claims set out by the petitioner in the present writ petition are genuine, it is left open to him to submit all the documents and objections by participating in the enquiry and establishing his case before the first respondent at the time of adjudication. The first respondent also shall conduct the enquiry by affording a reasonable opportunity to all the parties concerned and by providing copy of the complaint and other documents filed by the complainant to the writ petitioner enabling him to submit his objection/explanation in respect of the complaint filed before the Revenue Divisional Officer in this regard.

9. In this view of the matter, the writ petitioner is at liberty to participate in the enquiry and adjudicate the matter on merits in accordance with law before the first respondent. The first respondent/ The Revenue Divisional Officer, Ponneri, Thiruvallur District, shall proceed with the enquiry as per the procedures contemplated under law and shall take a decision in this regard on merits and in accordance with law.

10. With the above observations, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
   Ponneri, Thiruvallur District.

2. The Tahsildar,
   Ponneri Taluk, Ponneri,
   Thiruvallur District.

+1cc to Mr.S.Siva Kumar, Advocate sr.no.60955
+1cc to Government Pleader sr.no.61300

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nr 28/09/2018