

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2018

CORAM

THE HONOURABLE MR.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.23853 of 2018 and
WMP.Nos.27803 and 27804 of 2018

1. Mr.N.Mohan
2. Mr.N.Kandasamy ... Petitioners

..Vs..

1. The District Collector,
Kancheepuram District.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. The Revenue Divisional Officer,
Chengalpattu Taluk,
Kancheepuram District.
4. The Tahsildar,
Thiruporur Taluk,
Kancheepuram District.

5. Mrs.K.Anitha ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to quash the impugned endorsement order dated 18.04.2018, passed by the fourth respondent in Na.Ka.No.1533/2011-A2 and direct the respondents 1 to 4 to consider the representation dated 19.04.2018 and to direct the respondents 1 to 4 to restore Patta No.346 in respect of the agricultural lands comprised in Survey Nos.219/1, 219/2, 219/4, 219/5, 219/6 and 217/3 totally to an extent of 1 acre 57 cents situated at No.43 Padur Village, Thiruporur Taluk, Kancheepuram District, which was cancelled by the fourth respondent (the then Tahsildar, Chengalpattu) on 26.07.2011 in his proceedings Na.Ka.No.1533/11-A1 in pursuant to the order dated 19.07.2016 made in W.A.No.798 of 2016.

For Petitioner : Mr.K.Mahalingam

For Respondents: Mr.S.R.Rajagopal

Additional Advocate General

Assisted by

Mr.V.Shanmugasundar (R1 to R4)

Mr.A.E.Ravichandran (R5)

O R D E R

This Writ Petition has been filed challenging the impugned order dated 18.04.2018, passed by the fourth respondent in Na.Ka.No.1533/2011-A2 and direct the respondents 1 to 4 to consider the representation dated 19.04.2018 and to direct the respondents 1 to 4 to restore Patta No.346 in respect of the agricultural lands comprised in Survey Nos.219/1, 219/2, 219/4, 219/5, 219/6 and 217/3 totally to an extent of 1 acre 57 cents situated at No.43 Padur Village, Thiruporur Taluk, Kancheepuram District, which was cancelled by the fourth respondent (the then Tahsildar, Chengalpattu) on 26.07.2011 in his proceedings Na.Ka.No.1533/11-A1 in pursuant to the order dated 19.07.2016 made in W.A.No.798 of 2016.

2. The case of the petitioners is that the petitioners are the absolute owners of the aforesaid property having purchased the same on 25.11.1986 from one Mrs.Mehrunnisa Bee and her son Mr.Sadiq Basha. According to the petitioners, even prior to the purchase, the petitioners parents were in possession of the said lands as tenants under one Mr.Hyath Basha, the husband of said Mrs.Mehrunnisa Bee. Based on the sale deed dated 25.11.1986, patta was granted to the petitioners on 04.02.1999. In the year 2011, the petitioners received a notice from the fourth respondent on the representation given by the fifth respondent, seeking for cancellation of patta which stood in the name of the petitioners, stating that the patta has been wrongly transferred to them. It is further stated that the fifth respondent who is stranger to the suit property has obtained Power of Attorney from one Mr.C.A.Khabeer on 06.03.2009 based on the exparte decree dated 11.11.1989 made in O.S.No.8667 of 1985. According to the petitioners, the fifth respondent and her husband had suppressed various material facts and got the patta standing in the name of the petitioner cancelled on 26.07.2011. Thereafter, the petitioners have given a representations to the fourth respondent on 27.03.2017 and 19.04.2017 seeking to restore patta in favour of the petitioners and they have also questioned how the patta was issued by them in favour of the fifth respondent, under the Right to Information Act on 24.02.2017. But, till date neither the patta has been restored nor any reply was given by

the fourth respondent. While so, it is stated that instead of considering the request of the petitioners, the fourth respondent had passed an erroneous order on 18.04.2018 in proceedings in Na.No.1533/2011/A2, holding that fifth respondent is in possession of the property. Aggrieved by the same, the Writ petition has been filed by the petitioners seeking for the relief stated supra.

3. The learned Additional Advocate General appearing for the respondents 1 to 4 would submit that aggrieved by the said order, an appeal is preferred under Patta Pass Book Act, before the third respondent and after enquiry by the third respondent, the orders were reserved. In the meanwhile, this Writ Petition is filed challenging the very same order, which is impugned in the appeal filed before the third respondent.

4. The said fact is admitted by the learned counsel for the petitioner. It is also admitted by the learned counsel for the petitioner that the petitioner had appeared before the third respondent and advanced his arguments.

5. Considering the aforesaid facts and circumstances, this Court is of the view that the petitioners cannot prosecute parallelly before two forums challenging the same order. Hence, this Writ petition is not maintainable as he had rightly preferred an appeal before the third respondent against the order of the fourth respondent.

6. In the light of the above circumstances, the third respondent is directed to pass orders on the appeal filed by the petitioners on 11.05.2018, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Kancheepuram District.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. The Revenue Divisional Officer,
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Kancheepuram District.
4. The Tahsildar,
Thiruporur Taluk,
Kancheepuram District.

+1cc to the Government Pleader Sr.83668 & 83669
+10ccs to Mr.A.E.Ravichandran, Advocate Sr.83319
+1cc to Mr.K.Mahalingam, Advocate Sr.83177

W.P.No.23853 of 2018

srg 12/12/2018