IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.07.2018

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

W.P.No.5234 of 2015
and
M.P.No. 1 of 2015 & WMP.No.27717 of 2017

R.Venkateswaran ..Petitioner

vs

1.The District Collector,
Collectorate, Cuddalore.

2.The District Revenue Officer,
Cuddalore.

3.The Revenue Divisional Officer,
Collectorate, Cuddalore.

4.The Revenue Thasildar,
Cuddalore.

5.R.Kasturi. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining impugned order in Na.Ka.No.A3/1100/2013 dated 20.02.2013 passed by the 3rd respondent and consequently direct the 4th respondent to restore the patta in favour of the petitioner.

For Petitioner : Mr.D.Ravichander
For Respondents : Mr.M.Elumalai,
Government Advocate for
R1 to R4
Mr.S.Rajagopal for R5

O R D E R

The order cancelling the patta granted in favour of the writ petitioner by the Revenue Divisional Officer, Cuddalore in proceedings dated 20.02.2013, is under challenge in this writ petition.

2. The learned counsel appearing for the petitioner made a submission that the petitioner is the absolute owner of the property prescribed in the writ petition. Initially, patta was granted in favour of the writ petitioner. However, contrary to the facts and circumstances, the 5th respondent submitted an application for cancellation of patta before the Revenue Divisional Officer and the same was entertained and an order was passed in favour of the 5th respondent, cancelling the patta granted in favour of the writ petitioner. Challenging the said order, the present writ petition has been filed.

3. In the impugned order dated 20.02.2013, it is categorically stated that an appeal remedy lies against the order passed by the 3rd respondent before the District Revenue Officer, who is the 2nd respondent in the present writ petition and it is further stated that the said appeal shall be filed by the writ petitioner within a period of 30 days. Instead of filing appeal before the appellate authority, the writ petitioner has chosen to file the present writ petition.

4. The learned counsel appearing for the petitioner made a submission that no opportunity was provided to the writ petitioner and therefore, principles of natural justice has been violated.

5. This Court is of an opinion that the appellate authority is exercising its quasi judicial functions. Therefore, all legal points and the grounds urged including the non-compliance of the principles of natural justice can be adjudicated before the appellate authority and the appellate authority is also at liberty to consider all such legal points raised by the respective parties.

6. This Court is of an opinion that the grant of Patta, cancellation of patta or alteration of revenue records can be done only if the ownership of the person is established under Section 3 of the Patta Pass Book Act, 1983. The Act enumerates that patta proceedings can be granted only in favour of the owner. Thus, there should not be any dispute in respect of the ownership and in those circumstances alone, the competent authority are empowered to grant Patta. In the event of any dispute in respect of title and ownership, the respective parties shall approach the competent civil Court of law for redressal of their grievances. If the dispute is raised before the revenue officials in respect of title or ownership, then the revenue officials are incompetent to grant ownership to the parties in patta proceedings. In such an event, the respective parties are bound to approach the competent Civil Court of law for redressal of grievances. Only on conclusion of the civil litigation, the respective parties are at liberty to submit

fresh application for grant of patta under the provisions of Patta Passbook Act, 1983. At the outset in the event of any dispute, between the parties in respect of title, ownership or possession, the revenue officials cannot entertain any application for grant of patta or cancellation of patta. Now the patta granted in favour of the writ petitioner has been cancelled at the instance of the 5th respondent. The 5th respondent is also questioning the title of the writ petitioner in respect of the portion of the property, which belongs to the 5th respondent. Such being the factum of the case, this Court is of an opinion that if at all the petitioner is aggrieved, it is left open to him to approach the competent Civil Court of law to establish his title, ownership of possession in respect of the property in question.

7. The writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

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To

1.The District Collector,
Collectorate, Cuddalore.

2.The District Revenue Officer,
Cuddalore.

3.The Revenue Divisional Officer,
Collectorate, Cuddalore.

4.The Revenue Thasildar,
Cuddalore.

+1cc to Mr.D.Ravichandar, Advocate SR.No.49050
+1cc to Mr.S.Rajagopal, Advocate SR.No.48555

W.P.No.5234 of 2015

SSV(CO)
GN(11/08/2018)