

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.16382 of 2008

Krishnappa

... Petitioner

Versus

1.The Tahsildar,
Taluk office,
Hosur - 635 109.

2.The Birkka Surveyor,
Bahalur circle, Taluk office,
Housur - 635 109.

3.Baskar

... Respondents

[Respondent no.3 impleaded as per
Court order dated 27.11.2008 in
M.P.No.2/2008 in WP.No.16382/2008]

Prayer: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Mandamus, directing the respondents to enquire and dispose of the representation of the petitioner dated 02.11.2007.

For Petitioner : Mr.K.S.Vaithyanathan

For Respondents: Mr.R.S.Selvam,
Government Advocate for R1 & R2

: R3, Dismissed vide order
dated 25.11.2009

O R D E R

The prayer sought for in the present writ petition is to direct the respondents 1 and 2 to enquire and dispose of the representation of the petitioner dated 02.11.2007.

2. The case of the petitioner is that he is owning 8 acres of land in Survey No.883, which is situated in Bahaloor Main Road, Nallorevelli and the property in Hosur, which was his

ancestral property and inherited by him and he-obtained Patta and enjoying the said land. Meanwhile, he came to know that one Baskar S/o Pappaya has created fraudulent documents and sought for individual Patta for 2.60 acres in Survey No.883/1 and he obtained separate Patta in his name by utilising forged and fraudulent documents. After obtaining Patta, immediately, he filed a suit for a declaration, declaring that he is the rightful owner of the above said property. But the said suit was dismissed. After coming to know about the transfer of Patta has been effected fraudulently, the petitioner immediately filed his representation on 02.11.2007 to cancel the Patta and requested the Tahisldar not to survey the land till his representation was disposed of and sent reminders on 31.01.2008 and 02.02.2008. Since, there was no response from the Tahisldar, the petitioner filed this Writ petition.

3. The learned Government Advocate would submit that if the petitioner is aggrieved with the order of the Tahisldhar in transferring the Patta in the name of Baskar, he has got an alternate remedy to appeal before the RDO regarding cancellation, exclusion and inclusion of name in Patta according to the Sections No.10,12 and 13 of the the Patta pass Book Act, 1983 the sections referred to above are extracted hereunder:-

"10.Modification of entires in the patta pass book (1) Where any person claims that any modification is required in respect of any entry in the patta pass book already issued under section 3 either by reason of the death of any person or by reason of the transfer of interest in the land or by reason of any other subsequent change in circumstances, he shall make an application to the Tahsildar for the modification of the relevant entries in the patta pass book.

(2) An application under sub section (1) shall contain such particulars as may be prescribed and shall be accompanied by the documents, if any, relied on by the applicant as evidence in support of his claim.

(3) (a) Before passing an order on an application under sub-section (1), the Tashildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the parties concerned to make their representations either orally or in writing. If the Tasildar decides that any modification should be made in respect of entires in the patta pass book, he shall pass an order accordingly and shall make such

consequential changes in the patta pass book as appear to him to be necessary, for giving effect to his order.

(b) If the Tahsildar decides that there is no case for effecting any modification in the entries in the Patta pass book, he shall reject the application/

(c) An order under clause (a) or clause (b) shall contain the reasons for such order and shall be communicated to the parties concerned in such manner as may be prescribed.

12. Appeal. - Any person aggrieved by an order made by the Tahsildar under this Act may, within such period as may be prescribed, appeal to such authority on such appeal shall subject to the provisions of section 13, be final.

13. Revision . - Any officer of the Revenue Department not below the rank of District Revenue Officer authorised by the government by notification in this behalf for such area as may be specified in the notification, may of his own motion or on the application of a party call for and examine the records of any Tahsildar or appellate authority within his jurisdiction in respect of any proceeding under this Act and pass such order as he may think fit:

Provided that no such order prejudicial to any person shall be made unless he has been given a reasonable opportunity of making his representation.

4. Recording the above submissions and based on the statements and provisions available to the petitioner, this Writ petition is dismissed with liberty to the petitioner to approach the appropriate authority to pursue his remedy, in the manner known to law. No Costs.

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Assistant Registrar(CS IX)

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To

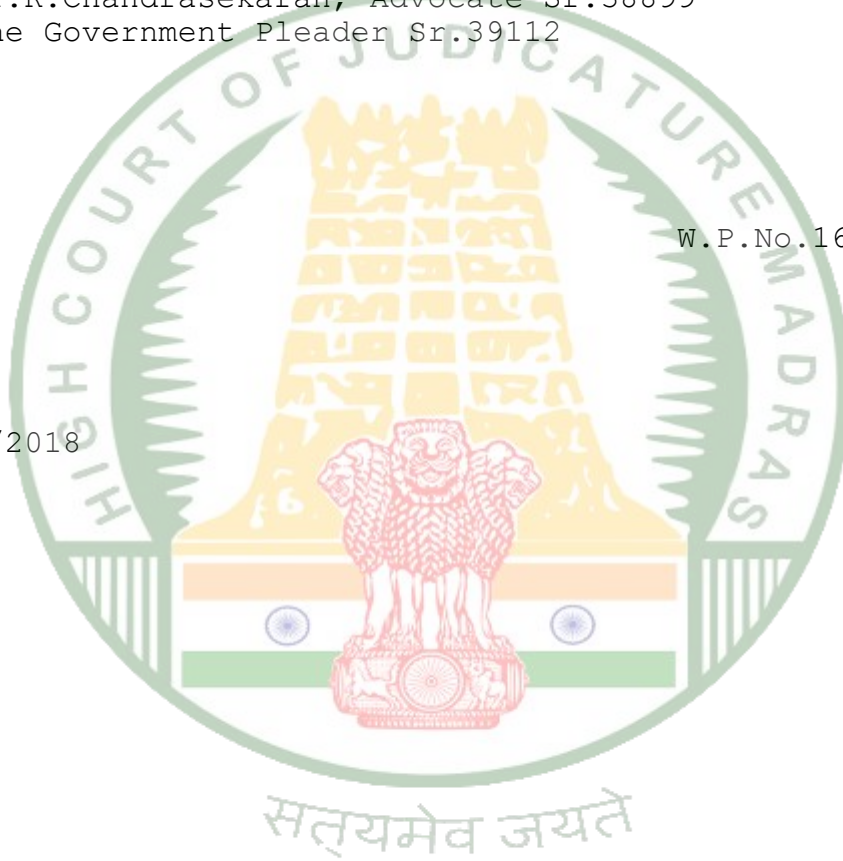
1.The Tahsildar,
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+1cc to Mr.K.Chandrasekaran, Advocate Sr.38899
+1cc to the Government Pleader Sr.39112

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srg 27/07/2018



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