BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.03.2018
CORAM :
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.3185 of 2018
and
WMP(MD)Nos.3344 and 3345 of 2018

Vadivel ... Petitioner

Vs.

1.The District Collector,
Trichirapalli District,
Trichirapalli.

2.The District Revenue Officer,
District Collectorate,
Trichirapalli District,
Trichirapalli.

3.The Tahsildar,
Srirangam Taluk,
Trichirapalli District,
Trichirapalli.

4.The Block Development Officer,
Panchayat Union Office,
Manickadam Panchayat,
Srirangam Taluk,
Trichirapalli District,
Trichirapalli. ... Respondents

Petition filed under Article 226 Constitution of India to issue a Writ of Certiorari calling for the records relating to the proceedings in Na.Ka.Aa2/39993/2013 dated 01.02.2018 on the file of the second respondent and quash the same.

For Petitioner : Mr.K.Vallinayagam
Senior Counsel
For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent cancelling the patta granted in favour of the petitioner.

2.The case of the petitioner, in brief, is as follows:

(i)The petitioner's grandfather one Maruthai was in absolute possession and enjoyment of the property in S.F.Nos.168/2 and new S.F.Nos.179/2A, 179/2D, 179/2G, 179/1, 179/2F, 2H, 3, 179/4A, 179/2C, 179/2E and 179/4B at Pallakadu Village, Athavathur West, Srirangam Taluk, Trichy District, measuring to an extent of 19.85 acres, and he died leaving behind his wife Valliyammal and three sons. Originally, the above said lands belonged to one Thanappa Chettiyar and it was gifted to a charity viz., Thanneerpanthal Arakattalai in the year 1864 for providing drinking water to the pilgrims, going to Palani temple. After the death of the said Thanappa Chettiyar, the said charity become defunct. Thereafter, the above property has been leased out to the predecessors of the petitioner in the year 1937 and in the year 1974, the authorised officer (Land Reforms) declared 11.28 acres of land as surplus land out of 19.58 acres and subsequently assigned the said surplus land in favour of the petitioner's grandfather Maruthai and two others in the year 1976.

(ii)In the year 1977, an agreement was entered into between the Government and the assignees for payment of the value of the land in 19 equal installments. Thereafter, a patta was issued in favour of the assignees on the basis of the assignment given in the year 1976. A patta was also issued to the forefathers of the petitioner based on their continuous possession and enjoyment for more than 40 years. Subsequently the entire lands were divided between the legal heirs of Maruthai. Even before issuance of patta under UDR scheme, patta stands in the name of Maruthai and his name was also found place in 'A' register.

(iii)In the year 2013, the Revenue Divisional Officer, Tiruchirapalli called the petitioner and the legal heirs of Maruthai for an enquiry, regarding cancellation of patta. Challenging the same, the petitioner's father has filed WP(MD)No.10446 of 2013, before this Court and this Court, by the order dated 04.07.2013, directed the Revenue Divisional Officer to pass appropriate orders on merits. Pending enquiry, a board has been put up in front of the petitioner's property, as if the property belongs to the Trust. In order to remove the same, the petitioner has filed a writ petition in WP(MD)No.10301 of 2014 before this Court. This Court, by the order dated 30.01.2018, disposed the said writ petition with a direction to the Revenue Divisional Officer to complete the enquiry pending before him for cancelling the patta and pass suitable orders after giving an opportunity to the petitioner as well as to the fourth respondent within a period of six weeks from the date of receipt of a copy of the order.

3.Now, the grievance of the petitioner is that when this Court by the order dated 30.01.2018, directed the Revenue Divisional Officer to complete enquiry after giving an opportunity to the petitioner as well as fourth respondent, without giving any opportunity, the Revenue Divisional Officer has passed the impugned order on the very next day i.e., 01.02.2018, cancelling the patta granted in favour of the petitioner. Hence, challenging the same, this writ petition has been filed.

4.The second respondent has filed a detailed counter affidavit stating that as per the revenue records, the property in dispute belongs to one Thanneer Pandhal Dharma Paripalanam Trust, maintained by the Block Development Officer, Manikandam Panchayat. The petitioner cannot grab the property without any valid title over the same. In so far as the issuance of notice and conducting enquiry, in paragraph - 11 of the counter affidavit it is stated that the second respondent has issued notice to the petitioner on various dates from 15.09.2017 to 29.01.2018 and only after issuing notice, the impugned order has been passed and there is no illegality in the order passed by the second respondent and the same do not require any interference.

5.Before considering the case on merit, it is useful to refer the order passed by this Court in WP(MD)No.10301 of 2014 dated 30.01.2018, which reads as follows:

> *".....However, since the proceedings to cancel the patta is pending for long time, the District Revenue Officer, Tiruchirpaalli is directed to consider the above application and pass orders after giving an opportunity to the petitioner as well as the fourth respondent within a period of six weeks from the date of receipt of a copy of this order. ...."*

6.This Court, has specifically directed the second respondent/District Revenue Officer, Trichirapalli to consider and pass orders on the proceedings for cancelling the patta after giving an opportunity to the petitioner as well as fourth respondent within a period of six weeks. But, the second respondent, on the very next day i.e., 01.02.2018, has passed the impugned order cancelling the patta granted in favour of the petitioner. The justification of the second respondent in the counter affidavit is that several notices have been issued to the petitioner from 15.09.2017 to 29.01.2018 prior to passing orders. The said contention cannot be accepted for the simple reason that on 30.01.2018, this Court has specifically directed the second respondent to consider the application and pass orders, after giving an opportunity to the petitioner as well as fourth respondent, but without giving any notice whatsoever and without conducting any enquiry, the very next day i.e., 01.02.2018, the impugned order has been passed.

7.In the above circumstances, without going into the merits of the case, since the impugned order is passed in disobedience of the order passed by this Court, the same is liable to be set aside and the matter is liable to be remanded back to the second respondent.

8.In fine, this writ petition is allowed. The impugned order passed by the second respondent dated 01.02.2018 is set aside and the matter is remanded back to the second respondent. The second respondent is directed to issue fresh notice to the petitioner as well as fourth respondent and conduct an enquiry, permit them to raise their objections, and after considering their objections, the second respondent is directed to pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, WMP(MD) Nos.3344 and 3345 of 2018 are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar-

To

1.The District Collector,
Trichirapalli District,
Trichirapalli.

2.The District Revenue Officer,
District Collectorate,
Trichirapalli District,
Trichirapalli.

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Trichirapalli.

4.The Block Development Officer,
Panchayat Union Office,
Manickadam Panchayat,
Srirangam Taluk,
Trichirapalli District, Trichirapalli.

+1 CC to The Special Government Pleader, SR.No.55657
+1cc to M/s.V.Illanchezian, Advocate, SR.No.55129
mj
RL/7C/4P/JC/SAR1/16/4/2018

<u>WP(MD)No.3185 of 2018</u>

<u>14.03.2018</u>