

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 14.09.2018

Pronounced on : 07.06.2019

CORAM:

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.12537 of 2009

and

W.MP.No.2 of 2009

L.Narayana Reddy ...Petitioner

Vs

1. The Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai - 5.
2. The District Revenue Officer, Krishnagiri
3. The Revenue Divisional Officer, Hosur.
4. P.Narayana Reddy,
Son of Pappi Reddy,
At Motham Agraharam Village,
Moolandapalli post, Hosur Taluk,
Krishnagiri.Respondents

Prayer:

Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in proceedings D.Dis (K4) 10138/06 and dated 14.05.2009 and quash the same as illegal incompetent and without jurisdiction and further direct the respondents to restore the patta in the name of petitioner with respect to property at survey number 13/2A2 and 13/2B2 measuring an extent of 0.42 acres and 0.84 acre situate at Motham Agraharam village, Hosur Taluk, Krishnagiri district.

For Petitioner : Mr. G.Keerthana
for Mr.K.S.Karthik Raja.

For Respondents : Mr. M.Sricharan Rangarajan,
Addl.Govt.Pleader for R1 to R3
Mr.P.Mani for R4

O R D E R

The present writ petition has been filed challenging the impugned order dated 14.05.2009, passed by the Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai - 5, in proceedings D.Dis (K4) 10138/06 and dated 14.05.2009 and quash the same as illegal incompetent and without jurisdiction and further direct the respondents to restore the patta in the name of petitioner with respect to property at survey number 13/2A2 and 13/2B2 measuring an extent of 0.42 acres and 0.84 acre situate at Motham Agraharam village, Hosur Taluk, Krishnagiri district.

2. The land involved in the present dispute is survey No.13/2A and 13/2B in Motham Agraharam village, Hosur Taluk, Krishnagiri District. The question is to whether the Tahsildar was correct in granting patta to the writ petitioner. According to the writ petitioner, he purchased 0.42 acre out of 0.59 acre in survey No.13/2A and extent of 0.84 acre in Survey No.13/2B, from one Ramesh, S/o. Muniappa and one Jayammal. The said Ramesh and Jayammal are children of Lt. Muniappa.

3. The petitioner states that, he purchased the property on 16.06.1991 at Motham Agraharam Village, in Survey No.13/2A and 13/2B. The property was owned by one Chinna Madhiah Reddy and one Ramaiah. Chinna Madhiah Reddy owned 2.13 acre and Ramaiah owned 3.4 acre. The petitioner states that, out of 2.13 acre, with Chinna Madhiah Reddy, Ramaiah purchased another 1.54 acre from Chinna Madhiah Reddy in the year 1922. The said 1.54 acre, which was purchased in the year 1922, came to the share of Muniyappa, father of Ramesh and Jayammal and on his death, the property was inherited by Ramesh and Jayammal. The petitioner states that, he has purchased the property from the owners of the property, the Ramesh and Jayammal who owned 1.54 acre being the property purchased by Ramaiah.

4. According to the writ petitioner, the respondent P.Narayana Reddy obtained patta for 1.98 acre in Survey No.13/2A, which included 0.5 acre owned by Ramesh. Ramesh objected before Tahsildar. Survey No.13/2A was therefore sub divided in to Survey No.13/2A and 13/2A2 and patta for 0.42 acre came to Ramesh and the petitioner has got the patta of the land. The petitioner also states that the respondent P.Narayana Reddy filed a suit in O.S.No.39 of 1996, which includes the present land in question. The suit of P.Narayana Reddy, in which the petitioner was impleaded as third defendant was one for injunction and declaration. The present area which comes under in Survey No.13/2A is included in the 'B' schedule in the suit.

5. The petitioner states that, the said suit was dismissed as withdrawn and liberty has given to file a fresh suit. The said order granting liberty was challenged by Ramesh in C.R.P.No.998 of 1997, before this Court on the ground that, the subsequent suit would be barred by limitation and liberty granted would have effect of extending the scope of limitation. This Court while dismissing the C.R.P.No.998 of 1997, held that, no Court has the power to extend limitation. The petitioner states that, fresh suit has not been filed after the withdrawal of the suit. The Tahsildar granted patta to the petitioner. The respondent herein, preferred an appeal before the Revenue Divisional Officer, Hosur, who by his order dated 06.08.2007, set aside the order of the Tahsildar on the ground that, the Tahsildar did not follow the Survey procedures to sub divide the land and no notice was issued to the respondent herein.

6. Against the order of the Revenue Divisional Officer, the petitioner filed a Revision Petition before District Revenue Officer, Krishnagiri, who by his order dated 21.07.2006, set aside the order of the Revenue Divisional Officer and restored the order of Tahsildar again on the ground that, the principles of natural justice has not been followed. This order was challenged by the respondent, in a further Revision Petition before the Principal Secretary and Commissioner of Land Administration, who by the order impugned in the present writ petition set aside the order of the District Revenue Officer stating that, there were proceedings between the parties from the year 1996 and it is well settled that, when dispute regarding the title is going on, the Tahsildar must not indulge in changing revenue records. The Principal Secretary and Commissioner for Land Administration, who is the second Revisional Authority found that, the order of Revenue Divisional Officer is correct, since there were procedural lapses on the part of the Tahsildar, while granting patta.

7. The second Revisional Authority held that, the District Revenue Officer while entertaining the belated Revision Petition did not give the sufficient ground to condone the delay nor did he consider the pendency of title suits. It is this the order of the second Revisional Authority, i.e., the Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai, which is now being challenged. The respondent states that, the petitioner had filed a suit in O.S.No.46 of 1996, against him wherein he had admitted his title. He also states that, he had purchased suit property from the said Ramesh and Jayammal and had prayed for specific performance of the contract. It is stated that, the said suit was dismissed. The appeal against the suit was also dismissed. The petitioner

therefore cannot challenge the title of the respondent, and therefore, no patta could have been granted to the petitioner.

8. Material on record also show that, Ramesh and Jayammal have filed a suit OS.No.328 of 2005, against the petitioner in respect of the suit property for the following prayers,

"Wherefore, the plaintiffs very humbly pray that the Honourable Court may be pleased to pass a decree and judgment.

i) declaring the title of the plaintiffs to th suit schedule property.

ii) grant permanent injunction against the defendants, their servants, agents and supporters restraining them from interfering with the peaceful possession and enjoyment of the plaintiffs and creating any encumbrances over the suit properties in any manner;

i) award the costs of the suit; and

ii) Award such other relief, relief's as this Honourable Court may deem fit and proper under the circumstances of the case and thus render justice"

9. The respondent states that, the order of second Revisional Authority is correct in as much as the suit in O.S.No.328 of 2005, was pending in which the right title and the interest of Ramesh and Jayammal were in dispute. It was stated that, the sale deed executed by them would not confer any title to the petitioner. The petitioner in his writ petition also seeks the challenge to the maintainability of the second Revision Petition. According to him, the Government of Tamil Nadu passed the G.O.(Ms).No.409, Revenue SSI(1) Department dated 02.07.2008, wherein, it is stated that, all the Revision Petitions pending before the Government should be transferred to the Civil Court. The said Government Order reads as under:-

ABSTRACT

Transfer of Registry - Second Revision to Special Commissioner and Commissioner of Land Administration against the orders passed by the District Revenue Officers - R.S.0.31.8(A) - withdrawing the power of Second Revision vested with the Special Commissioner and Commissioner of Land Administration on transfer of Registry cases and permission to refer all pending untried cases of revision to the appropriate Civil Courts - orders issued.

Revenue SSI(1) Department

G.O. (Ms) No.409

Dated : 2.7.2008

1. G.O. (Ms) No. 2977, Revenue Department, dated 10.11.1981.
2. G.O. (Ms) No. 629, Revenue Department, dated 29.10.99.

Read Also:

3. From the Special Commissioner and Commissioner of Land Administration Lr.No.K4/6972/2005, dated 23.2.2005 and D.O. Lr.No. of even No. dt. 8.4.05 and 21.3.2006.
4. Government Lr.No.10254/SSI/2005-6, dated 3.5.2006.
5. From the Commissioner of Land Administration Lr.No. K4/6972/2005, Dt. 8.6.2006 and D.O. Lr. dated 21.8.2006, 27.12.2006 and 3.10.2006.
6. Govt. Lr.No. 10254/SSI (1)/2005-7, Revenue, dt. 1.9.2006.
7. From the Special Commissioner and Commissioner of Land Administration D.O. Lr.No. K4/6972/05, dt. 3.1.2008, 23.5.2008.

ORDER:

The Special Commissioner and Commissioner of Land Administration in his references 3rd, 5th and 7th read above has sent a proposal to Government for withdrawal of the provision of Second Revision powers from Commissioner of Land Administration on Transfer of Registry cases. Besides, the Special Commissioner and Commissioner of Land Administration has also requested the Government to accord permission to refer all existing cases of revision on transfer of registry to the appropriate Civil Courts; and also to permit to retain only the cases for which hearing have commenced; and to return the remaining cases to the petitioners directing them to seek remedy in the appropriate Civil Courts.

2. For withdrawing the second revision powers on transfer of Registry cases he has cited the judgment pronounced by the Hon'ble High court. Chennai in W.A.No. 1342/94 and CMP No. 15872/94 dated 26.10.1994, in which he has pointed out that the Revenue forums have no jurisdiction to decide either the right or title of land in patta transfer cases and it is for the Civil Courts to decide such issues. As difficulties are experienced in dealing with the Second Revision cases, the Special

Commissioner and Commissioner of Land Administration has pointed out that numerous appeals pave the way for issues being dragged endlessly and the Special Commissioner and Commissioner of Land Administration having been overburdened with multifarious issues relating to lands spread over the entire state.

2. The Special Commissioner and Commissioner of Land Administration has suggested draft amendment to the existing R.S.O. para 31.8(A) by way of deletion of the following lines

" A further revision to the Commissioner of Land Administration can be made within 30 days from the date of receipt of the order and the orders of the Commissioner of Land Administration are final"

3. In the above circumstances, the Government examined the proposal of the Special Commissioner and Commissioner of Land Administration in detail, and decided to accept Amendment to R.S.O.31.8(A) as mentioned in para 3 above. Accordingly, the Government direct the Special Commissioner and Commissioner of Land Administration that all ongoing enquiries may be carried on to the logical conclusion and orders issued. The Special Commissioner and Commissioner of Land Administration should ensure that in all cases where enquiries are not commenced, they may be returned back, with direction to approach Competent Court of Law.

(BY THE ORDER OF GOVERNOR)

AMBUJ SHARMA,
SECRETARY TO GOVERNMENT.

10. The respondent states that, the said Government order exempts such of those matters wherein, enquiries had been initiated. The learned counsel for the respondent also relied on the order dated 25.08.2008, of this Court in Writ Petition No.20644 of 2008, where the Court directed the Government to dispose of the Revision Petition between the parties, within a period of 12 weeks. It was therefore contended by the respondent that, despite the Government order quoted above, the second Revision had to be disposed of as directed by the High Court of Madras, de-horse the Government order. The entire proceedings before the second revisionary authority have been marked and are now being reproduced.

ADMISSION OF REVISION IN RESPECT OF PATTI TRANSFER/
NATHAM SETTLEMENT

Sub: Patta Transfer Krishnagiri District - Hosur Taluk -
Motham Agraharam Village -S.No.13/2A - Ext., 0.76.5 Hec.
R.P. filed against the order of District Revenue Officer
-Reg.

Ref: 1. Proceedings of the District Revenue Officer,
Krishnagiri.

R.C.No. RP 40/2005/52 dt.21.02.2006.

2. Revision Petition dated (RC. 11/2005) 16.03.2006 received
from Thiru. P.Narayana Reddy. Son of Pappi Reddy.

1.District - Krishnagiri
2. Taluk - Hosur
3.Village - Motham Agraharam
4. Name of the Revision Petitioner - Thiru. P. Narayana
Reddy
Son of Pappi Reddy

5.The Relevant provision under which
the revision petition is filed. - R.S.0.31 (8)
(A)

6. Has Original order/ Certified copy of - Yes
Yes the order against revision petition
filed been enclosed.

7 Date of the Order of the DRO - 21.02.2006

8. Date on which the fair copy of the - 21.02.2006
District Revenue Officer has been
signed.

9. Date on which the revision petitioner - 03.03.2006
is reported to have received the order.

10. Has the Revision Petitioner produce - No
any recorded evidence for the
receipt of the order.

11. Date of filing of the Revision - 17.03.2006
petition in this office

12. Has the appeal been filed within - Yes
30 days from the date of receipt of

the order of the District Revenue Officer.

13. Is there any delay in filing this revision petition. If so indicate the exact days of delay. - No

14. Whether stay of the order of the District Revenue Officer is requested. - No

The revision petitioner Thiru. P.Narayana Reddy, Son of Papi Reddy has filed a revision petition against orders of the DRO, Krishnagiri dt. 21.02.2006 in this office on 17.02.2006, within the prescribed time limit of 30 days.

The file may L.O.T 25.04.06 awaiting Govt, orders on withdrawal of second revisional powers to CLA in respect of Transfer of Registry Cases.

Sd... 28/3/06 AC(S)

Submitted:

The Proforma at P 1-3 NF may kindly be seen.

The revision petitioner Thiru. P.Narayana Reddy has filed the revision petition against the orders of the DRO dt 21.02.2006 on 17.03.2006 within the prescribed time limit.

File is submitted for orders whether this revision petition may be taken on file and to request the DRO, Krishnagiri to send the connected records as and when called for from this office.

A may be Approved

Sd... 28/9/06 AC(S)

Submitted:

As per the orders of the SC AC LA, draft Lr.to the DRO, Krishnagiri is submitted for approval.

Sd... 4/10/06 AC(LD)

Submitted:

Ref: 1) Memo dt. 30.09.2006 received from the revision petitioner.

2) Lr.dt. 22.05.2007 received from Thiru.P.Narayana Reddy under Right to Information Act.

The Revision Petitioner has requested to inform whether the

revision petition dt. 16.03.2006 has been forwarded to the DRO, Krishnagiri and if so, the file no. and date on which the communication sent to the DRO. The revision petition may be informed the is revision petition has been taken on file and will be taken up for personal hearing on seniority basis. The enclosed DD may also be communicate to 'N' Section for necessary action.

A. 2 drafts are submitted for approval.

ON

Ref: 1) H.C.Madras order dt. 25.08.08 in W.P.No.20644/2008

2) Repr. Dt. 16.09.08 received from the R.Pr.

In the reference first cited the H.C.Madras has directed to dispose of the Revision petition on merits within a period of 12 weeks from the date of receipt of the order.

Date of H.C.order - 25.08.08

Date of receipt from the R.Pr. - 20.09.08

Orders to be passed with 12weeks is on of before - 12.12.08

File is submitted to PS & CLA for purpose of fixing in convenient date to hear the case.

Sd...
PS & CLA.

ON

As ordered by PS & CLA, draft leaving notice is submitted for approval. A draft Lr. To DRO, Krishnagiri is also submitted for approval.

ON

This case has been posted for hearing on 19.11.08 at 12.Noon, as per the direction of High Court, Madras. Hearing Notice were sent to the counsel for Revision Petitioner and to the respondents by RPAD. Connected Lower Courts records are still awaited from DRO, Krishnagiri.

Brief facts of the case is at F.

Sd...
PS & CLA

ON

This cse has been adjourned to 20.01.2009 at 1.00am. Accordingly, draft hearing notice is submitted for approval.

ON

This case has been posted for hearing on 19.11.08 and adjourned to 28.01.2009 at 11.00am. Hearing Notices were sent to the counsel for R.Pr. and the respondents. Corrected

Collectorate file is at F.

Brief facts of the case is available at F.

File is submitted to PS & CLA for favour of leaving the case
on 28.01.2009 at 11.am.

Sd...

PS & CLA

Order dictated

Fair Copy Approved"

11. Heard the counsel for the parties.

12. A reading of the facts in the present case would show that the facts are complicated. The Tahsildar while granting patta to Ramesh and Jayammal and to the petitioner P.Narayana Reddy by its order dated 24.10.1997 and 04.04.2003 respectively, has not made any enquiry before granting patta. The Patta Pass Book Act 1983, was enacted for issuance of patta pass book to the holders of Agricultural land. Section 3 of the Act are deals with the issuance of patta pass book, which reads as under:-

"Section 3 : Issue of Patta Pass Book

(1) The Tahsildar shall issue a Patta Pass Book to every owner in respect of land owned by him, on an application made by him in this behalf. Any application received under this section shall be acknowledged by the Tahsildar or any other officer authorised by him in this behalf.

(2) A taluk shall be the unit for the issue of Patta Pass Book.

(3) (a) As soon as may be after the publication of the notification under subsection (3) of section 1 bringing this section into force in an area and before undertaking the work relating to the issue of Patta Pass Book, the Tahsildar shall publish a notice in each village in such area informing the public that Patta Pass Book, is to be issued under this Act to every owner and such owner shall apply for the issue of Patta Pass Book as provided under this section.

(b) The notice shall contain such further particulars and shall be published in such manner, as may be prescribed.

(4) The application under sub-section (1) shall be in such form, shall contain such declaration and particulars, and shall be made in such manner and within such time, as may be prescribed.

(5) In cases where no application has been made by any owner within the time-limit referred to in sub-section (4) in respect of any land, the Tahsildar shall, based on the entries made in the records available in his office, cause a notice to be served on the owner of the land concerned requiring him to furnish any information or produce any document for his inspection and also to make representation, if any, in writing for making necessary entries in respect of the land concerned in the Register of Patta Pass Book maintained by him and for the purpose of issuing the Patta Pass Book.

(6) (a) Any owner on whom a notice has been served under sub-section (5) shall be bound to furnish or produce for the inspection of the Tahsildar within such time as may be specified in such notice or within such further time not exceeding thirty days as the Tahsildar may, in his discretion, allow all such information or documents needed for making necessary entries in the Register of Patta Pass Book in respect of the land concerned or for the purpose of issuing the patta pass book, as may be within his knowledge or in his possession or power.

(b) Where any information is furnished or any document is produced in accordance with the notice under sub-section (5) the Tahsildar or any officer authorised by him in his behalf shall be give a written acknowledgement thereof to the person furnishing or producing the same and shall endorse on such document a note under his signature stating the fact of its production and the date thereof.

(7) On receipt of the application under sub-section (1) or on the basis of information obtained by the Tahsildar under clause (b) of sub-section (6) the Tahsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the persons having interest in the land to make their representations either orally or in writing.

After considering the claims of the persons having interest in the land, the Tahsildar shall determine as to whom the Patta Pass Book is to be issued and shall issue a Patta Pass Book accordingly to the owner of the land concerned.

Provided that in the case of any owner who has not made an application under sub-section (1) and in respect of whom a notice has been served under subsection (5), no Patta Pass Book shall be issued by the Tahsildar, unless a declaration in the prescribed form is filed by the owner concerned before the Tahsildar.

Provided further that in any case where the Tahsildar is satisfied that any person is not the owner of any land for which a Patta Pass Book is applied for or claimed, he shall for reasons to be recorded in writing reject the application or claim, for the issue of a Patta Pass Book in respect of such land.

(8) The Patta Pass Book shall be in such form as may be prescribed and contain the following particulars, namely:-

- (a) the survey number or sub-division number, extent and local name if any, of the land.
- (b) the name and address of the owner;
- (c) such other particular as may be prescribed.

(9) While issuing a Patta Pass Book under this section the Tahsildar shall show cause all the entries particulars as contained in such patta pass book, to be made in the Register of Patta Pass Book maintained in the office of the Tahsildar for the purpose of the record. The Register of Patta Pass Book shall be in such form and maintained in such manner, as may be prescribed.

(10) The patta pass book shall be issued under this section on payment of such fees as may be prescribed."

13. Owner is defendant as Section 2(6) reads as under:-

"2(6) "owner" means any person holding land in severally or jointly or in common under a ryotwari settlement or in any way subject to the payment of

revenue direct to the Government and includes a full owner or limited owner but does not include a mortgagee, lessee or a tenant."

14. Section 6 are makes entries in patta pass book n the prima facie evidence of the title reads as under:-

"Section 6 : Entries in the Patta Pass Book to be prima facie evidence of title

The entries in the Patta Pass Book issued by the Tahsildar under section 3 shall be prima facie evidence of title of the person in whose name the Patta Pass Book has been issued to the parcels of land entered in the Patta Pass Book, free of any prior encumbrance unless otherwise specified therein."

15. Though it is well settled, the patta does not grant title, yet it is an important piece of evidence to prove title. The patta pass book is given to those owners who is be a full owner or a limited owner, not being a mortgagee or lessee. The patta pass book mandates a detailed enquiry on the part of the Tahsildar before making entries in the Patta Pass Book Act. The procedure is mentioned in Section 3, as quoted above.

16. Section 10 of the Patta Pass Book Act provides for modification of entries in patta pass book, which reads as under:-

"Section 10 : Modifications of entries 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 Tahsildar shall follow such

procedure as may be prescribed and shall also give reasonable opportunity to the parties concerned to make their representations either orally or in writing. If the Tahsildar decides that any modifications should be made in respect of entries 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 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."

17. The procedures given in Section 10 is akin to Section 3. A reading of the order of the Tahsildar does not give any indication as to the nature of enquiries conducted by the Tahsildar before issuing patta. The order of the Revenue Divisional Officer which is an extremely short one and does not bring out any factual aspect reads as under:-

21/04 dated 4.2.2004

Office of Sub

Collector

Hosur

Memorandum

Sub: Copy of the Application for Sub Division - Hosur Taluk Village No. 89, Motham Agraharam Village Survey No.13/2A and 13 /2B done new sub divisions and cancelling the issuance of patta in the name of Narayana Reddi son of Linga Reddy

Ref: 1.R.C.No.4830/03(1) dated 23.5.03 of Thasildar of Hosur

2. Petition by Mr.Narayana Reddy, son of Pappi Reddy dated 24.4.03

3. R.C.No. 6/2/1294/02-03 dated 4.4.03 of Thasildar, Hosur

4. R.C.N0. 3738/03(A4) dated 6.8.03 of the Revenue Inspector of Hosur

Mr.Narayana Reddy , son of Linga Reddy, Mukkondapalli village, (Hosur Taluk has purchased an extent of 0.51.0

Hectares of land comprised in Survey No. 13/2A and 13/2B of Motham Agraharam village and since has submitted the application seeking individual patta and based on that the Thasildar has approved the sub division documents for issuing individual patta.

In the letter cited in Ref 1 above the Thasildar, Hosur has submitted the report stating that there is objection to issue patta to the above mentioned person and further there is case pending pending before the court and hence to cancel the approval of the documents of sub division.

Therefore the report of the Thasildar regarding this was carefully examined. Therefore the order of approving the documepts of the sub division of the above land 6/2/1294/02-03 dated 4.4.03 as cited in Ref 3 above is stand cancelled.

Sd/-
Lalithvana Sub Collector, Hosur

To
Mr.L.Narayana Reddy,
1/136, Mukkondapalli,
Hosur
Copy to:A4 ,C.F and R.C. No. 3738/03 file"

18. What is desernable in the order is that the Tahsildar has not followed the procedure and has passed the order without hearing parties.

19. The District Revenue Officer while considering the Revision also does not deal as to how the persons claiming patta to got title to the property or is in possession. These enquiries are must to be done before patta is granted. The cross-examination is done not for granting title, but to ensure that the patta is given to the owner of the property, who would be either be absolute or a limited owner.

20. The perusal of the Government order would show that the second Revision was not maintainable. The Government order directs the Special Commissioner and Commissioner of Land Administration that all ongoing enquiry must be carry on to the logical conclusion and such all those enquiry which had not commenced to be reported back and they be directed to approach the Civil Court of law. The order issued before the second Revisional Authority would show that the Revision was filed on 17.03.2006. It was filed within time. The Revision Petition was

awaiting its turn for being considered. However, this Court by an order dated 25.08.2008, in WP.No.20644 of 2008, directed the second Revisional Authority to dispose of the Revision Petition. The order of High Court is therefore subsequent to the Government order dated 02.07.2008. It should have been mentioned to this Court that the Government has already passed an order in G.O.(Ms.)No.409 dated 02.07.2008, that all matters in second Revision where enquiry were not commenced had to be send to the Civil Court. Notices in this case were issued only after 25.08.2008. Despite the fact that, the Government had passed G.O.Ms.No.409 dated 02.07.2008, directing that all cases in which the enquiry had not been initiated must be transferred to Civil Court, this Court is of the view that, the Court in WP.No.20644 of 2008, by order dated 25.08.2008, had directed the second revisional authority to dispose of the case. The second revisional authority has right in entertaining the second revision petition.

21. This Court has carefully read the impugned order. The impugned order set aside the order of District Revenue Officer on the following grounds:-

a) Several suits were pending when the Tahsildar passed the impugned order and therefore, the Tahsildar had not modified the entries.

b) The Revenue Divisional Officer was correct in holding and there was a procedural lapses on the part of the Tahsildar.

c) The District Revenue Officer had not to have entertain the Revision belatedly.

22. A perusal of the order of the second Revisional Authority again show that, he has also not applied his mind as to whether the requirement of Section 3 of the Patta Pass Book Act has been complied with, as to whether the patta has been given to the correct owner. The Tahsildar is not expected to adjudicate on issue of title, but it is the duty to grant patta to the owner. If the title of the property is in dispute, it is expected that the Tahsildar must ask the parties to approach the Civil Court for getting title declared before patta is granted.

23. This court is of the opinion that, the requirement of the Section 3 has not been met with at all. The orders of the Tahsildar does not show as to whether he had heard all the parties concerned, as to whether the parties had shown as to how they derive title, who has given the report that which of the party is in possession and such other particulars that are necessary before granting the entry in patta pass book.

24. In the light of the above discussions, the order of Tahsildar dated 04.04.2003, the order of the Revenue Divisional

Officer dated 06.08.2003, the order of District Revenue Officer dated 21.01.2006 and the present impugned order dated 14.05.2009, are set aside and the matter is sent back to Tahsildar for denova enquiry for satisfaction as to who is the owner of the property (without adjudicating on title). If the title is in dispute, then the Tahsildar is directed to await the judgment of the Civil Court and also make such other enquiries that are necessary for grant of patta. Since this present dispute was initially way back in the year 2003, the Tahsildar is directed to complete the proceedings within a period of 6 weeks from the date of receipt of a copy of this order. As stated earlier, all the orders including the order impugned herein are set aside and the matter is remanded back to the Tahsildar.

25. Accordingly, the writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai - 5.
2. The District Revenue Officer, Krishnagiri
3. The Revenue Divisional Officer, Hosur.
4. The Tahsildar, Hosur.

+1cc to Mr.S.K.S.Karthick Raja, Advocate Sr.46069

WP.No.12537 of 2009

br [co]
srg 03/07/2019