

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2019

CORAM::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.NO.5648 OF 2019
& W.M.P.Nos.6435 & 6437 of 2019

R.Muniyandi @ Chandran,
S/o.Ramasamy,
No.449, 9th Street,
Sashtri Nagar, Vyasarpadi,
Chennai - 600 039.

... Petitioner

/versus/

1. The Assistant Settlement Officer (North),
O/o.Principal Secretary and Commissioner,
of Land Survey and Settlement,
Chepauk, Chennai - 600 005.
2. The District Revenue Officer,
Thiruvallur District, Thiruvallur.
3. The Revenue Divisional Officer,
Ponneri, Thiruvallur District.
4. The Tashildar,
Ponneri Taluk,
Ponneri, Thiruvallur District.
5. The Village Administrative Officer,
Padiyanallur, Ponneri Taluk,
Thiruvallur District.

6. Mr.K.Natarjan,
S/o.Kandasamy,
No.3/225, Thilakar Street,
M.A.Nagar, Red Hills,
Chennai - 600 052

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the records in the impugned order dated 18.02.2019, in Na.Ka.19491/2018/A3, passed by the 2nd respondent, quash the same and pass appropriate orders.

For Petitioner : Mr.S.P.Sudalaiyandi

For R1 to R5 : Mr.P.H.Aravind Pandian,
Additional Advocate General - II,
Assist by Mr.J.Purushothaman,
Government Advocate

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The petitioner herein has obtained Patta from the Assistant Settlement Officer/1st respondent, vide proceedings dated 19.09.2011 as if the land covered under the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948. The said order is pursuant to the complaint made by one Mr.K.Natarajan on 18.08.2018 came under scrutiny and the District Revenue Officer, Thiruvallur District, found that the subject land was classified as 'Government Anadeenam' all along even during UDR scheme, exercise but all of a sudden, the Assistant Settlement Tashildar has issued patta in favour of the petitioner, without following the procedures, standing order and the instruction of the Revenue Department.

3. The said order is impugned by the petitioner on three grounds.

(i). The order has been passed behind their back, without following the principle of natural justice and no notice was issued to him prior to cancellation of patta.

(ii). The District Revenue Officer is not the competent Authority to cancel the patta issued by Assistant Settlement Tashildar/1st respondent, under the Tamil Nadu Estate (Abolition and Conversion into Ryotwari Act.

(iii). The impugned order is conspicuously silent about the proceeding initiated by Assistant Settlement Officer/1st respondent before issuing patta to the petitioner, vide proceedings dated 19.09.2011.

4. The Learned Additional Advocate General appearing for the respondents 1 to 5 would submit that, the revenue records all along been describing the subject property as "Government Anadeenam" till the Assistant Settlement Officer, passed the order on 19.09.2011. He has issued patta totally in contradiction with the procedure and Act. Earlier similar attempt was made by the petitioner which was rightly rejected by the Assistant Settlement Officer on the ground of latches. However, the petitioner approached this Court by way of filing Writ Petition in W.P.No.15175 of 2011 and order was passed in

that Writ Petition on 30.06.2011 directing the Assistant Settlement Officer to consider the representation of the petitioner and pass appropriate order. In the said Writ Petition, the petitioner herein has impleaded only the Assistant Settlement Officer and Tashildar as a party though knowing fully well that the enquiry and other proceedings should have been done in consonance with (*) **the Commissioner of Land Administration**, but failed to implead (*) **the Commissioner of Land Administration**. In any event, pursuant to the direction of this Court, in the above said Writ Petition, the Assistant Settlement Officer, passed the order on 19.09.2011, without forwarding the proposal to (*) **Commissioner of Land Administration**, which is contemplated the circular issued by the Government in view of fraudulent issuance of patta by Assistant Settlement Officers, without proper verification of the Revenue Records. During the enquiry, based on the complaint given by Natarajan, the lapse on the part of the Assistant Settlement Officer, was found and for the said reason, the Patta issued to the petitioner was cancelled.

5. The Learned Additional Advocate General would fairly conceded that, while cancelling the patta through the impugned order on 18.02.2019, opportunities was not given to the petitioner. In any event, the manner in which patta was issued in favour of the petitioner is improper, illegal and will not sustain the legal scrutiny. Since, it is contrary to the revenue records, the District Revenue Officer, Thiruvallur, after taking note of this facts, has issued the impugned order for canceling the patta and if the petitioner is really aggrieved for not given opportunity and the order was not passed by appropriate authority, the respondents are ready to consider the order passed by the Assistant Settlement Officer, dated 19.09.2011, suo motu by way of revision exercising the power conferred to (*) **Commissioner of Land Administration** under Section 7 of the Act.

6. Further, the Learned Additional Advocate General for the respondents would also submit that, under Section 11 of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, only the land owner or a Ryotwari alone are entitled for any patta. The petitioner is neither the land owner nor the Ryotwari at the time of enactment.

7. This Court, considering the fact holds that the petitioner ought to have been given an opportunity before cancelling the patta. He was not given opportunity before cancellation of patta though the manner in which patta issued in his name may be under cloud. Hence, without advertting to the other merits of the case, the order passed by the District Revenue Officer, on 18.02.2019, which is impugned in this Writ Petition is hereby set aside. The order passed by the 1st

respondent/Assistant Settlement Officer, dated 19.09.2011 and the complaint given by Mr.K.Natarajan/6th respondent, which has triggered the enquiry proceedings and culminated in issuance of impugned order shall be taken into consideration by **(*) Commissioner of Land Administration** in exercise the power under Section 7 of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948. The Commissioner of Land Acquisition, shall scrutinise the order passed by the Assistant Settlement Officer/1st respondent and pass appropriate order, in accordance with law, within a period of 60 days, from the date of receipt of a copy of this order, after affording opportunity to the petitioner and if necessary, the complainant Mr.K.Natarajan/6th respondent.

8. In the result, the Writ Petition is disposed with direction that the impugned order in Na.Ka.19491/2018/A3, dated 18.02.2019 is hereby quashed. **(*)The Commissioner of Land Administration,** shall consider the order passed by the 1st respondent/Assistant Settlement Officer, dated 19.09.2011 by exercising its revisional power under Section 7 of the Tamil Nadu Estate (Abolition and Conversion into Ryotwari) Act, 1948, and pass appropriate orders within a period of 60 days, from the date of receipt of a copy of this Order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Ins.Cell)
dt.16.10.2019

//True Copy//

**(*)Corrections carried out as per
Order of this Court dated 14.02.2020
made in WP.No.5648 of 2019**

Sd/-

Assistant Registrar

सत्यमेव जयते

Sub Assistant Registrar

bsm

To

1. The Assistant Settlement Officer (North),
O/o.Principal Secretary and Commissioner,
of Land Survey and Settlement,
Chepauk, Chennai - 600 005.

WEB COPY

2. The District Revenue Officer,
Thiruvallur District,
Thiruvallur.

3. The Revenue Divisional Officer,
Ponneri, Thiruvallur District.

To be substituted
the Order already
despatched on
19/11/2019

4. The Tashildar,
Ponneri Taluk,
Ponneri, Thiruvallur District.

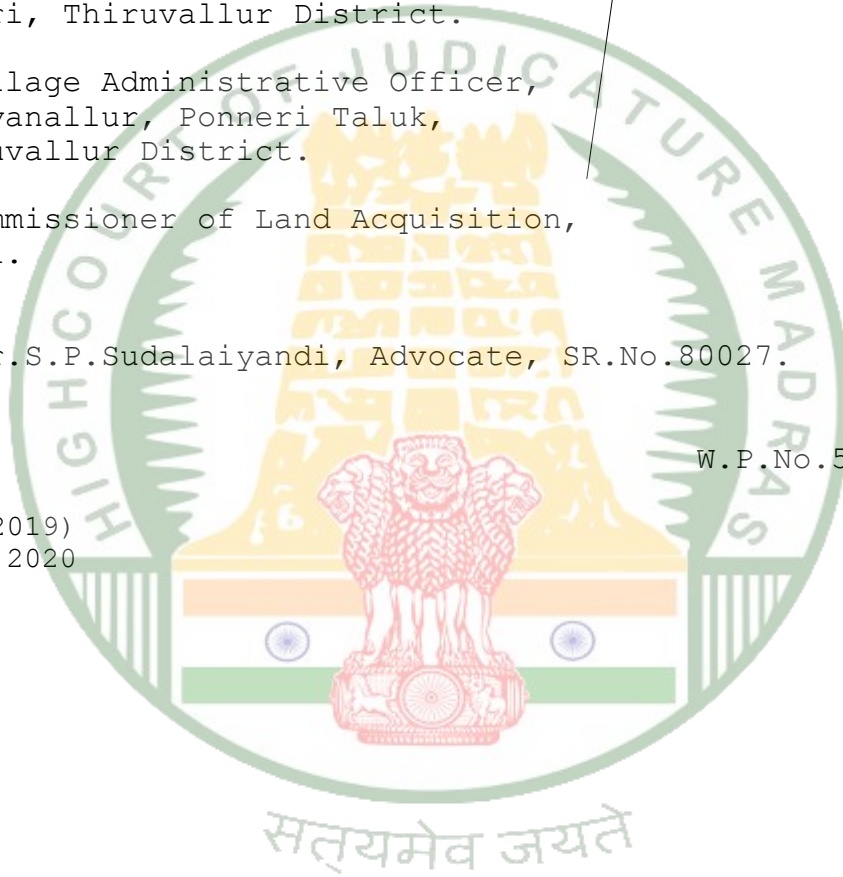
5. The Village Administrative Officer,
Padiyanallur, Ponneri Taluk,
Thiruvallur District.

6. The Commissioner of Land Acquisition,
Chennai.

+1cc to Mr.S.P.Sudalaiyandi, Advocate, SR.No.80027.

W.P.No.5678 of 2019

Kak(21/10/2019)
CSR: 18.02.2020



WEB COPY