

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.05.2019

CORAM:

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

W.P.No.14471 of 2019

and

W.M.P.Nos.14480 and 14481 of 2019

S.Syed Rahim Basha

...Petitioner

/vs/

1.The District Revenue Officer,
District Collector Office,
Krishnagiri - 635 115.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Hosur - 635 109,
Krinshnagiri District.

3.The Tahsildar,
Shoolagiri Taluk Office,
Shoolagiri - 635 117.
Krishnagiri District.

4.Mr.Shan Basha

... Respondents

Prayer This Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for records of he First Respondent issued in Nka.29065/2018/J-2 dated 26.04.2019, quash the same and consequently direct the 2nd Respondent to conduct an enquiry and pass orders to delete the wrong entries made in the revenue records in favour of the 4th Respondent and issue joint patta in favour of the Petitioner and his brother's and sisters in respect of lands measuring to an extent of acre 1.39.50 hectare(3.50 acres) comprised in Survey No.1260 of Shoolagiri Taluk, Ayarnapalli Village, Krishnagiri District within the time to be stipulated by this Hon'ble Court.

For Petitioner :Mr.R.Bharathikumar

For Respondents:Mr.M.Elumalai,
Government Advocate,
for R1 to R3

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and Mr.M.Elumalai, learned Government Advocate who accepted notice for respondents 1 to 3.

3. The petitioner has filed this writ petition challenging the order of the First Respondent issued in Nka.29065/2018/J-2 dated 26.04.2019 and seeks to quash the same and consequently direct the 2nd Respondent to conduct an enquiry and pass orders to delete the wrong entries made in the revenue records in favour of the 4th Respondent and issue joint patta in favour of the Petitioner and his brothers and sisters in respect of lands measuring to an extent of acre 1.39.50 hectare(3.50 acres) comprised in Survey No.1260 of Shoolagiri Taluk, Ayarnapalli Village, Krishnagiri District.

4. Challenging the order of the Tahsildar issuing the patta in the name of the fourth respondent Mr.Shan Basha, the Petitioner preferred an appeal before the Revenue Divisional Officer, viz., the 2nd respondent. As per Rule 14 of the Tamil Nadu Patta Pass Book Act, 1983 all the appeal being disposed of by the authority namely the Revenue Divisional Officer, who is the competent authority under Section 13 of the TNPP Act, has to pass orders on the appeal. The Petitioner has challenged the impugned order by the 1st respondent, in this writ petition.

5. Section 10 of the TNPP Act makes it very clear that in respect of Patta or any modification required in respect of any entry in the patta, as per the Patta Pass Book Act, an application has to be made to the Tahsildar. Section 12 deals with appeal as against the order passed by the Tahsildar. Section 13 of the Act deals with revision and the same makes it clear that only officer of the Revenue Department not below the rank of District Revenue Officer is the Revisional authority. Admittedly, the writ petitioner has filed an appeal as against the order of the Tahsildar before the Revenue Divisional Officer as per Rule 14 of the Act, who is the Appellate Authority. When the matter was pending before the RDO, the Revisional Authority, namely, DRO, assumed the role of RDO and passed the final order, which is certainly against the very provisions of law. In fact, passing of such order, right of filing revision has been taken away. Hence, the order passed by the DRO is hereby set aside and the Appellate Authority namely the RDO shall rehear the appeal and shall dispose the appeal on merits and in accordance with

law, within a period of three months after giving an opportunity to all the parties concerned.

6. With the above direction, the writ petition stands allowed. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dpq/tsg

To

- 1.The District Revenue Officer,
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Hosur - 635 109,
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- 3.The Tahsildar,
Shoolagiri Taluk Office,
Shoolagiri - 635 117.
Krishnagiri District.

+1 cc to Mr.R.Bharath Kumar, Advocate, Sr.No. 44490
+1 cc to The Government Pleader, Sr.No. 44506

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CSL/17.06.2019

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