IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :18.11.2019

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.22673 of 2019
and
W.M.P.No.22155 & 22153 of 2019

K.Moongilammal .. Petitioner

/versus/

1.The Additional Chief Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai-5.

2.The District Revenue Officer,
Office of the Collectorate,
Thiruvallur District.

3.The Tahsildar,
Office of Tahsildar,
Thriuvallur.

4.P.Sharmila .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 1st respondent in Letter No.K4/29539/2018 dated 11.03.2019 and the consequential impugned notice of the 2nd respondent in Na.Ka.No.17905/2018/A3 dated 25.06.2019 and quash the same.

For Petitioner :Mr.M.Raja Sekhar

For Respondents :Mr.J.Purushothaman, GA for R1 to R3
Mr.P.Vasudevan for R4

ORDER

The writ petition has been filed seeking Certiorari calling for the records of the 1st respondent in Letter No.K4/29539/2018, dated 11.03.2019 and the consequential impugned notice of the 2nd respondent in Na.Ka.No.17905/2018/A3, dated 25.06.2019, and quash the same.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for respondents 1 to 3 and learned counsel appearing for the 4th respondent.

3.The petitioner herein aggrieved by the order passed by the first respondent remanding the matter back to the District Revenue Officer in respect of the patta issued in favour of the petitioner herein, in view of appeal filed by the 4th respondent before the first respondent, has filed the present writ petition.

4. The order of the first respondent/Additional Chief Secretary-Commissioner of Land Administration dated 11.03.2019 which is impugned before this Court, reads as below:

> "2.On scrutiny over the orders of the District Revenue Officer, Tiruvallur and the plea of the petitioner, it is pertinent at the face of it that eventhough a civil case is pending in the District Munsif Court, the District Revenue Officer, Tiruvallur has violated the directions of the Hon'ble High Court and ordered for cancellation of two S.Nos from the patta of the petitioner and restored it to the original position which is unlawful and inappropriate.
>
> 3.Hence, considering the above issues, the following directions are hereby given to the District Revenue Officer, Tiruvalur such as:-
>
> (i)The above case is remitted back to District Revenue Officer, Tiruvallur for a fresh enquiry to render justice to the petitioner's genuine plea. The action taken in this regard be reported shortly.
>
> As directed by the Additional Chief Secretary/Commissioner of Land Administration an explanation of the District Revenue Officer, Tiruvallur is called for passing an unlawful order within 15 days on receipt of this letter."

5.The learned counsel appearing for the petitioner would submit that as per Section 13 of the Tamil Nadu Patta Passbook Act, 1983, the Revisional Authority cannot pass an order prejudicial to the person without affording reasonable opportunity of making his representation. Contending that based on the petition filed by the 4th respondent, the first respondent has passed an order of remanding the matter back to the District Revenue Officer for fresh consideration without causing notice and hearing the revision petitioner (or) to the present writ petitioner herein, hence, it is bad in law.

6. Section 13 of the Tamil Nadu Patta Pass Book Act, 1983 reads below:

> "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 orders 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."

7. The above Section says that the revisional power vested with any officer not below the rank of District Revenue Officer can be exercised suomoto or on the application of a party calling for examination of records pertaining to the revenue officials below his rank.

8. Here is the case where the order passed by the District Revenue Officer has been scrutinised by the Additional Chief Secretary/Commissioner of Land Administration and has found that there is a prima facie error in the order and hence, with certain direction remanded the matter back for fresh consideration by the District Revenue Officer. This order is no way prejudicial either of the party. This infact gives fresh opportunity to the rival parties to place their respective documents before the District Revenue Officer for consideration in the course of enquiry.

9. Therefore, Section 13 of the Tamil Nadu Patta Pass Book Act, 1983 confers power of any officer of the Revenue Department not below the rank of District Revenue Officer to revise the orders suo moto or on the application and on such

order, subject to proviso that such order shall not be issued without affording opportunity if prejudicial of any person. The reading of the impugned order passed by the Commissioner of Land Administration is only a remand order, which no way prejudice to either of the parties concerned. Hence, Proviso to Section 13 of the Tamil Nadu Patta Pass Book Act, 1983 has no application.

10. In such circumstances, this Court finds that the order of the Commissioner of Land Administration cannot be interfered in the light of Section 13 of the Tamil Nadu Patta Pass Book Act, 1983.

11. The learned Government Advocate appearing for respondents 1 to 3 would submit that pursuant to the order passed by the first respondent dated 11.03.2019, the District Revenue Officer has commenced the enquiry and parties are participating in the enquiry and the next date of hearing is fixed as to 23.11.2019.

12. In view of the above fact, this Court finds that there is no material to interfere with the order passed by the 2nd respondent dated 25.06.019. Accordingly, this Writ Petition is disposed of with a direction to the 2nd respondent herein to complete the enquiry initiated pursuant to the order passed by the first respondent, on or before 17.12.2019. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

1.The Additional Chief Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk,
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2.The District Revenue Officer,
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Office of Tahsildar,
Thriuvallur.

+1 cc to Government Pleader sr96029
+1 cc to Dr.P.Vasudevan Advocate sr95257
+1 cc to Mr.M.Rajasekar Advocate sr95742

aa28/11/2019