IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.12.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.A.No.4278 of 2019
and
C.M.P. No.26707 of 2019

K.Moongilammal ... Appellant/ Petitioner

Versus

1. The Additional Chief Secretary/
Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai 600 005.

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

3. The Tahsildar,
Office of the Tahsildar,
Thiruvallur.

4.P.Sharmila ... Respondents/ Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 18.11.2019 in W.P.No.22673 of 2019 passed by this court.

Prayre in W.P.No.22673 of 2019:
Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Ceritorari 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 Appellant : Mr.M.Rajasekar

For RR1 to 3 : Mr.J.Pothiraj
Special Government Pleader

JUDGMENT

(Judgment of the court was made by R.SURESH KUMAR, J.)

This intra-court Appeal has been filed against the order passed by the learned Single Judge in W.P.No.22673 of 2019 dated 18.11.2019.

2. Heard the learned counsel Mr.M.Rajasekar appearing for the Appellant.

3. The Appellant is the Writ Petitioner before the Writ Court, who challenged the order passed by the first Respondent i.e., the Commissioner of Land Administration in Letter No.K4/29539/2018 dated 11.3.2019 and the consequential notice of the second Respondent in Na.Ka.No.17905/2018/A3 dated 25.6.2019, which were impugned before the Writ Court.

4. By the said order, the first Respondent, Commissioner of Land Administration, after taking into consideration the order passed by the District Revenue Officer i.e., the Second Respondent in respect of the subject land, where there has been a dispute between the Writ Petitioner and the fourth Respondent, had set aside the said order passed by the District Revenue Officer and remanded the matter back for enquiry/re-consideration by the District Revenue Officer, the second Respondent. The relevant portion of the order dated 11.3.2019 of the first Respondent reads thus:-

> "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 even though a Civil Case is pending in the District Munsif Court, the District Revenue Officer, Thiruvallur 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, Tiruvallur such as:-
>
> i) The above case is remitted back to District Revenue Officer, Thiruvallur 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, Thiruvallur is called for passing an unlawful order within 15 days on receipt of this letter."

5. Aggrieved over the same, the Writ Petition was filed contending that the first Respondent, Land Commissioner, before

passing the said order of remand, did not give any opportunity of hearing to the Writ Petitioner and on that ground, she unsuccessfully assailed the said order before the Writ Court thereby the Appellant is before this Court.

6. We have gone through the content of the order dated 11.3.2019 passed by the first Respondent and we come to know that the District Revenue Officer, the second Respondent, without taking into account the Civil Suit pending before the District Munsif Court and also in violation of certain directions issued by this Court in a related proceedings, seems to have passed the said order of cancellation of patta in respect of the land in question and therefore, in order to enquire into the matter by giving opportunity to both sides and decide the same on merits, the first Respondent set aside the order of the second Respondent and remanded the matter back for enquiry and re-consideration.

7. When such a reason was given by the Commissioner of Land Administration, who has remanded the matter for fresh consideration after setting aside the order passed by the District Revenue Officer, under Section 13 of the Patta Pass Book Act, 1983, we find no reason to interfere in the said order dated 11.3.2019. Moreover it is only a remand order, whereby directions were given to the District Revenue Officer, the second Respondent to enquire into the matter by affording opportunity of being heard to both the parties and decide the matter on merits by taking into account the Civil Suit pending before the Civil Court as well as the directions given by this Court in a related proceedings.

8. The said remand order, which was originally impugned before the Writ Court, is an innocuous order by which the Petitioner i.e., the Appellant herein is in no way prejudiced.

9. This aspect has been taken into consideration by the learned Single Judge while deciding the Writ Petition and the learned Single Judge, in the impugned Judgment, has given the following reasons:-

> "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 motu 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 to 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 11.3.2019, 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 25.06.2019. 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."

10. We see no reason to interfere with the said reasoning and conclusion arrived at by the learned Single Judge as the order impugned before the learned Single Judge is only a remand order by which, now, the matter has been pending before District Revenue Officer under Section 13 of the Patta Passbook Act, 1983 for decision to be arrived on merits. In that view of the matter, this Writ Appeal fails and it does not require any interference by this court.

11. Therefore, while upholding the order passed by the learned Single Judge, we observe that, the second Respondent, District Revenue Officer, pursuant to the order of remand made by the first Respondent, Commissioner of Land Administration, now, shall take note of the issue by sending separate notices to both the parties and after giving reasonable opportunity of being heard to both the parties decide the matter on merits and in accordance with law. Accordingly, we dispose of the present Writ Appeal. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Additional Chief Secretary/
   Commissioner of Land Administration,
   Ezhilagam, Chepauk, Chennai 600 005.

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

3. The Tahsildar,
   Office of the Tahsildar,
   Thiruvallur.

+1cc to Mr.M.Rajasekar , Advocate SR.No. 105208
+1 cc to Government Pleader Sr.No. 106224

W.A.No.4278 of 2019

A.SK(21/01/2020)