IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM :

The Hon'ble Dr.VINEET KOTHARI, ACTING CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE C.SARAVANAN

W.A.No.2844 of 2018
and C.M.P.No.23668 of 2018

K.Ganesan .. Appellant

-vs-

1.J.Abdul Nazar

2.The District Collector
Collector's Office
Tiruvallur, Chennai.

3.The Tahsildhar
Ambattur Taluk
Ambattur
Chennai - 600 053. .. Respondents

Appeal filed under Clause 15 of the Letters Patent praying to setting aside the order dated 25.10.2018 passed in W.P.No.10691 of 2013 in so far the direction issued to the District collector, Tiruvallur, to examine the records in relation to the writ petition in W.P.No.10691 of 2013 and institute appropriate criminal case/prosecution if the bogus pattas or other bogus pattas produced by any one of the parties for the purpose of encroachments of the government lands.

Prayer in W.P.No.10691 of 2013:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Mandamus directing the 1st and 2nd respondents to issue an assignment patta to an extent of 11 Sq.mtrs to the petitioner as recommended by the 2nd respondent by his proceedings na.ka.c-2/3598/97 dated 26.3.1998.

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For Appellant : Mr.B.Harikrishnan

For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader for R2 & R3

* * * * *

JUDGMENT

(Judgment of the Court was made by The Hon'ble Acting Chief Justice)

The Intra Court appeal has been filed against the order of the learned single Judge dated 25.10.2018, by which W.P.No.10691 of 2013 filed by the first respondent, J.Abdul Nazar, was disposed of by the learned single Judge with the following directions:

> '19. In this view of the matter, the following directions are issued:-
>
> (i) The relief, as such, sought for in the present writ petition stands rejected;
>
> (ii) The District Collector, Thiruvallur District is directed to convene a review meeting, within a period of two weeks from the date of receipt of a copy of this order and issue suitable orders/instructions to all the officials concerned and to identify the encroachments within his jurisdiction, both in the Government lands as well as in the water bodies and water resources;
>
> (iii) The District Collector, Thiruvallur District is directed to issue orders to all the officials concerned to initiate proceedings to evict those encroachers and protect the land for the welfare of the public at large;
>
> (iv) The District Collector, Thiruvallur District is directed to examine the records in relation to the present writ petition in WP No.10691 of 2013 and institute appropriate criminal case/prosecutions if the bogus pattas or other bogus pattas produced by any one of the parties for the purpose of encroachments of the Government lands.'

2. The learned counsel for the appellant submitted that the District Collector has not completed the enquiry as directed by the learned single Judge. He further submitted that though the present appellant holds patta for the land

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in question, on which he is in possession, ignoring the said facts the learned single Judge has made the aforesaid direction. He further submitted that the direction to institute appropriate criminal case/prosecution against the persons holding bogus patta or other bogus pattas made is also not correct in the facts and circumstances of the case.

3. Having heard the learned counsel for the appellant, we are of the opinion that since the learned single Judge has only directed the District Collector, Thiruvallur to examine the records of the case, the District Collector, Thiruvallur is expected to examine the evidence adduced before him. If the appellant claims to possess the patta in respect of the land in question, he can certainly produce evidence before the District Collector and it will be examined by the District Collector before taking any further action in the matter.

4. If the District Collector comes to the conclusion that the patta produced by the appellant is bogus or in-correct, he may proceed further in the matter. The appellant also will have further legal remedies available to him, if any adverse orders are passed against the appellant by the District Collector.

5. To avoid any further notice by the District Collector, we direct the appellant to appear before the District Collector, Thiruvallur at the first instance on 12.11.2019 at 11.00 a.m. and the appellant may adduce relevant evidence in his possession before the District Collector, Tiruvallur and the District Collector, after hearing the concerned parties, shall pass a speaking order within three months thereto.

6. In case, any adverse orders are passed against the appellant, he shall be at liberty to avail the further legal remedy in accordance with law, by way of civil suit or appeal under the relevant Act.

7. In view of the above direction, this Writ Appeal is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

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vsm
To

1.The District Collector
Collector's Office
Tiruvallur, Chennai.

2.The Tahsildhar
Ambattur Taluk
Ambattur
Chennai - 600 053.

+1 cc to Government Pleader Sr.No. 86468
+1cc to Mr.B.Harikrishnan , Advocate SR.No. 86135

W.A.No.2844 of 2018

A.SK(08/11/2019)

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