BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.11.2019**

CORAM:

THE HONOURABLE **MR.JUSTICE M.SUNDAR**

W.P(MD)No.4219 of 2011
and
M.P.(MD)No.2 of 2011

Dharmarajan ... Petitioner

/vs./

1.The District Revenue Officer, Madurai.

2.The Revenue Divisional Officer,
Vusilampatti, Madurai District.

3.Subbuthai
4.Bangaru ... Respondents

PRAYER: Writ Petition - filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Mu.Mu.No.93754/2010/G2 dated 11.02.2011 and quash the same and further direct the 1st respondent to rehear the revision on merits.

For Petitioner	: Mr.B.Ponnupandi for Mr.K.Govindarajan
For R-1 & R-2	: Mr.B.Bhagawathi Government Advocate
For R-3 & R-4	: No appearance

ORDER

Mr.B.Ponnupandi, learned counsel on behalf of writ petitioner and Mr.B.Bhagawathi, learned Government Advocate who accepts notice on behalf of first and second respondents are before this Court.

2. With regard to respondents 3 and 4 (private respondents), they have been duly served and have entered appearance through counsel whose name is shown in the cause list, but, there is no representation before this Court.

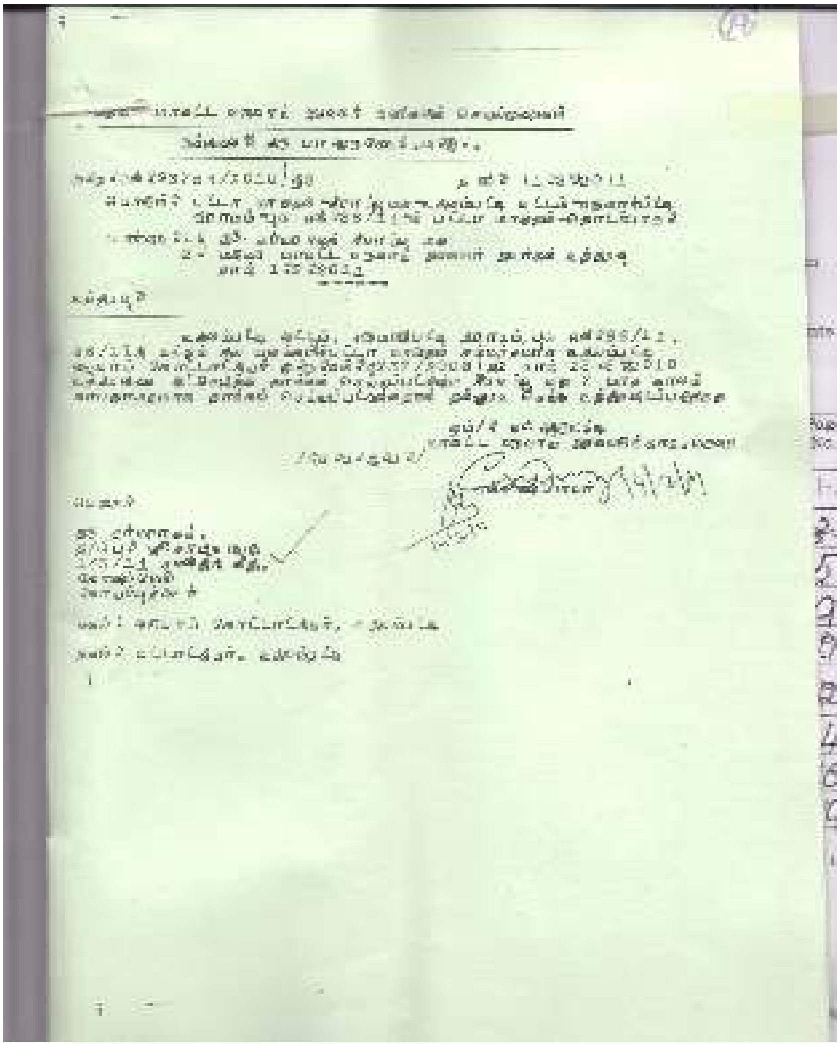
3. Be that as it may, the second respondent has filed counter affidavit and completed pleadings.

4. From the case file placed before this Court and from the trajectory of the hearing, it comes to light that an order disposing of main writ petition itself which is not adverse to the rights of

respondents 3 and 4 (private respondents) can be made.

5. Therefore, main writ petition is taken up, heard out and is being disposed of.

6. An order dated 11.02.2011 bearing reference Mu.Mu.No.93754/2010/Ji2 made by the first respondent has been called in question. The said order shall be referred to as 'impugned order' and it reads as follows:



7. Short point that arises in the instant writ petition is that the first respondent has refused to entertain a statutory revision under Section 13 of 'The Tamil Nadu Patta Pass Book Act, 1983 (4 of 1986)' (hereinafter referred to as 'said Act' for the sake of brevity, convenience and clarity) on the ground that the revision has purportedly been filed with a delay of seven (7) months.

8. To be noted, statutory revision in which the impugned order came to be passed is directed against an 'order dated 25.05.2010 bearing reference Mu.Mu.No.4737/2008/A2' by 'jurisdictional Revenue Divisional Officer' ('said RDO') ie, order which is sought to be revised bears the date 25.05.2010, but order has been signed only on 13.12.2010.

9. Learned counsel for writ petitioner submits that the order of jurisdictional RDO which is sought to be revised has been delivered to the writ petitioner on 13.12.2010 itself. Therefore, the time frame for statutory revision under Section 13 of said Act is to be computed from 13.12.2010.

10. What is of importance is that the time period prescribed for statutory revision to the first respondent is 90 days. This is contained in Sub-Rule (1) of Rule 15 of Rules made in said Act being 'Tamil Nadu Patta Pass Book Rules, 1987' (hereinafter referred to as 'said Rules' for brevity). This Court deems it appropriate to extract entire Rule 15 of said Rules which reads as follows:

> *15.Revision on application.- (1) An application under Section 13 to the District Revenue Officer or such officer as may be authorised by the Government in this behalf of Notification for revision of an order passed by the Tahsildar or the appellate authority <u>shall be filed within ninety days from the date of receipt of the order.</u>*
>
> *(2) The District Revenue Officer or such officer as may be authorised by the Government may admit an application for revision presented after expiry of the period mentioned in sub-rule (1), if he is satisfied that the party had just and sufficient use for not presenting it within the said period.'*

(underlining made by this Court to supply emphasis and highlight.)

11. In this regard, this Court notices that in the order of the jurisdictional RDO which is sought to be revised, it has been wrongly mentioned in the last paragraph that the time frame is 30 days, but this does not impact the matter, as the writ petitioner preferred the statutory revision before the first respondent on the very next day ie., 14.12.2010.

12. Even in the counter affidavit filed by the second respondent, the date of filing of statutory revision has not been disputed. Further more, even in the impugned order, which has been extracted and reproduced supra, the date of the statutory revision has been left blank.

13. Therefore, it comes to light that the statutory revision before the first respondent which is dated 14.12.2010 was filed on the same day ie., 14.12.2010.

14. Impugned order has rejected the revision and refused to entertain the revision solely on the ground of delay without going into the merits of the matter.

15. Further more, assuming, ie., on a demurrer even if there is a delay, there is a specific rule for condonation of delay, ie., Sub Rule (2) of Rule 15 of said Rules. Entire Rule 15 of said Rules has been extracted and reproduced supra. However recourse to Rule 15(2) of said Rules would have become necessary only if Revision had been filed after 90 days from 13.12.2010.

16. In the aforesaid backdrop, as it emerges clearly that there is no disputation or disagreement that statutory revision under Section 13 of said Act has been preferred within 90 days from the date of receipt of the order of the second respondent ie., said RDO being order dated 25.05.2010 but signed and served on 13.12.2010.

17. It follows as a sequitur that the impugned order is liable to be set aside as there is no delay on the part of writ petitioner in preferring the statutory revision much less 7 months delay as mentioned in the impugned order. First respondent is directed to take up the statutory revision dated 14.12.2010 made by the writ petitioner seeking revision of order dated 25.05.2010 made by the second respondent, hear it on it's own merits and in accordance with law, by giving reasonable opportunity to the writ petitioner as well as respondents 3 and 4 (private respondents) and pass an order.

18. The above said exercise of hearing the statutory revision on merits and disposing of the same, after giving reasonable opportunity to the writ petitioner and respondents 3 and 4 shall be completed by the first respondent as expeditiously as possible and in any event, within twelve (12) weeks from the date of receipt of a copy of this order.

19. The order passed in the statutory revision by the first respondent shall be communicated to the writ petitioner as well as respondents 3 and 4 under due acknowledgement within seven (7) working days from the date of revision order.

20. Instant Writ Petition is disposed of with directions as above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Revenue Officer, Madurai.

2.The Revenue Divisional Officer,
Vusilampatti, Madurai District.

+1CC TO MR.K.GOVINDARAJAN, Advocate Sr. No.96021
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 96085

Order made in
W.P(MD)No.4219 of 2011
Dated:
04.11.2019

KG(CO)
TR(19.11.2019)5P 5C