In the High Court of Judicature at Madras

Dated : 13.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.15016 & 38486 of 2015
and MP.Nos.1, 1 and 2 of 2015

B.Gopalayya ...Petitioner in WP.15016/2015 & R6 in WP. 38486/2015

M/s.Concord Housing Corporation Private Limited, rep.by its Authorized Signatory Mr.T.Gopal ...Petitioner in WP.38486/2015

Vs

1.The Principal Secretary & Commissioner of Land Administration, Government of Tamil Nadu, Chepauk, Chennai-5. ...R1 in WP. 38486/2015

2.The District Collector, Krishnagiri District, Krishnagiri.

3.The District Revenue Offcer, Krishnagiri District, Krishnagiri.

4.The Revenue Divisional Officer-cum Sub-Collector, Hosur, Krishnagiri District.

5.The Tahsildar, Hosur Taluk, Krishnagiri District. ...R1 to R4 in WP.15016/2015 & R2 to R5 in WP.38486/2015

6. Gopalayaa ..R6 Respondent in W.P.38486/2015.

PETITIONS under Article 226 of The Constitution of India praying for the issuance of (i) a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in Pa.Mu.No.49947/ 2008/J-2 dated 13.4.2015 signed on 22.4.2015, quash the same as illegal, incompetent and ultravires and consequently direct the respondents to issue patta for the properties in S.Nos.82/1, 82/3 & 82/5 at Echangur Village, Hosur Taluk, Krishnagiri District and (ii) a Writ of Certiorari to call for the records of the 3rd Respondent issued in Pa.Mu.No.49947/2008/J2 dated 13.4.2015 and quash the same respectively.

For Petitioner in
WP.No.15016/2015
& R6 in WP.No.38486/2015 : Mr.R.Jayaprakash

For Petitioner in
WP.No.38486/2015 : Mr.R.Bharathkumar

For Official Respondents : Mrs.A.Srijeyanthi, SGP

COMMON ORDER

I have heard Mr.R.Jayaprakash, learned counsel for the petitioner in the first writ petition, Mr.R.Bharathkumar, learned counsel for the petitioner in the second writ petition and Mrs.Srijeyanthi, learned Special Government Pleader appearing for the official respondents and perused the materials placed on record including the counter affidavit filed by the second respondent.

2. In these writ petitions, the short issue, which falls for consideration is as to whether the District Revenue Officer, Krishnagiri District, Krishnagiri could have canceled the order dated 07.2.1982 passed by the Revenue Divisional Officer, Hosur, Krishnagiri District in ROC.No.16965/80/L and the order dated 19.5.1987 passed by the Tahsildar, Hosur in Na.Ka.No. 7582/87/C3.

3. The reason for canceling both the orders by the impugned order is on the ground that the the Revenue Divisional Officer, Hosur, Krishnagiri District and the Tahsildar, Hosur were not correct in issuing patta, as they did not obtain permission from the Settlement Officer, as the time limit fixed for doing so was 30.6.1975 as per G.O.Ms.No.589 Commercial Taxes and Registration Department dated 14.5.1975 and as the time stipulated by the Government having expired, the Revenue Divisional Officer, Hosur, Krishnagiri District and the Tahsildar, Hosur had no power to issue patta in favour of persons similarly placed like the petitioner in the first writ petition.

4. The learned Special Government Pleader appearing for the official respondents has reiterated the contents made in the counter affidavit and submits that the second respondent was fully justified in canceling those two proceedings namely dated 07.2.1982 and 19.5.1987, as the Authorities namely the Revenue Divisional Officer, Hosur, Krishnagiri District and the Tahsildar, Hosur respectively had no jurisdiction to grant patta.

5. However, it is seen that the impugned order came to be passed on an application filed by the petitioner in WP.No.15016 of 2015 for grant of patta. The petitioner in WP.No.38486 of 2015 is the purchaser of an extent of 9.23.0 hectares of land from the petitioner in WP.No.15016 of 2015 by way of registered document dated 10.4.2008 vide Doc.No.5015 of 2008.

6. In the considered view of this Court, it would not be necessary for this Court at this juncture to examine the correctness of the stand taken by the second respondent in the impugned order because of the fact that the petitioners had no opportunity to put forth their contentions as to how the Revenue Divisional Officer, Hosur, Krishnagiri District and the Tahsildar, Hosur were justified in granting patta vide proceedings dated 07.2.1982 and 19.5.1987 respectively.

7. On a perusal of the impugned order, it is clear that the petitioners were not informed that the second respondent proposed to cancel the earlier proceedings of the year 1982 and 1987 and without putting the petitioners on notice, the impugned order could not have been passed by the second respondent. Therefore, on this technical ground, the petitioners are entitled to succeed.

8. It is no doubt true that in the operative portion of the impugned order, several earlier proceedings were referred to by the second respondent. However, it is the submission made by the learned counsel for the petitioner in the first writ petition that the recommendations dated 27.6.2009 and 29.4.2010 were not taken into consideration by the second respondent while passing the impugned order. These are the recommendations made by the Tahsildar, Hosur and the Revenue Divisional Officer, Hosur respectively.

9. In any event, since the petitioners did not have opportunity to rebut the allegations made in the impugned order and regarding the jurisdiction of the Revenue Divisional Officer, Hosur and the Tahsildar, Hosur to issue patta, the impugned order is liable to be interfered with. It is made clear that this Court has not gone into the merits of the matter as to

whether the second respondent was justified in his finding by referring to G.O.Ms.No. 589 dated 14.5.1975 to state that the revenue officials had no jurisdiction to issue patta. This issue is left open to be adjudicated afresh by the second respondent after issuing notice to the petitioners.

10. In the light of the above, the writ petitions are allowed, the impugned order is set aside and the matter is remanded to the second respondent for a fresh consideration. The second respondent is directed to issue a show cause notice to both the petitioners calling upon them to explain as to why the proceedings dated 07.2.1982 of the Revenue Divisional Officer, Hosur, Krishnagiri District in ROC.No.16965/ 80/L and the proceedings dated 19.5.1987 of the Tahsildar, Hosur should not be canceled. The show cause notice should be clear and should explicitly state as to why he proposes to take such action. The show cause notice shall be issued within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the petitioners shall submit their reply within four weeks' time. After receipt of the reply, the second respondent shall conduct an enquiry by affording an opportunity of personal hearing to the authorized representative of the petitioners, peruse the records that they may produce and after conducting an enquiry, pass a reasoned order on merits and in accordance with law within six weeks, from the date on which, the personal hearing is concluded. The status quo with regard to the entries in the revenue records as on date i.e. 13.1.2020 shall be maintained and the petitioners are not entitled to create any encumbrance. No costs. Consequently, the connected MPs are closed.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar



To
1.The Principal Secretary & Commissioner of Land Administration,
Government of Tamil Nadu, Chepauk, Chennai-5.



2.The District Collector, Krishnagiri District, Krishnagiri.

3.The District Revenue Offcer, Krishnagiri District, Krishnagiri.

4.The Revenue Divisional Officer-cum-Sub-Collector, Hosur, Krishnagiri
District.

5.The Tahsildar, Hosur Taluk, Krishnagiri District.

+1 CC to Govt. Pleader sr 3495.
+2 Ccs to Mr.R.Jayaprakash, Advocate sr 3323, 3322.
+1 CC to Mr.R.Bharathkumar, Advocate sr 3137.

WP.Nos.15016 & 38486/2015
and MP.Nos.1, 1 and 2/2015

CA(CO)
SP(24/02/2020)