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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM

THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P.NOS. 17602, 34189 & 34190 OF 2013

AND

M.P.NOS. 1 & 2 OF 2013

W.P.No.17602 of 2013

C.Selvaraju

...Petitioner

Vs

1.District Revenue Officer,
Kancheepuram District,
Kancheepuram.

2.Revenue Divisional Officer,
Kancheepuram.

3.Tahsildar,
Chengalpattu,
Kancheepuram District.

4.Tahsildar,
Thiruporur,
Kancheepuram District.

5.B.Ravi

6.B.Duraibabu

7.Kanniammal

8.Kumari

9.Bhanu

...Respondents

W.P.Nos.34189 & 34190 of 2013

C.Selvaraju

...Petitioner in
W.P.No.34189 of 2013



K.Malarkodi

...Petitioner in
W.P.No.34190 of 2013

Vs

1.Revenue Divisional Officer,
Chengalpattu,
Kancheepuram District.

2.Tahsildar,
Thiruporur,
Kancheepuram District.

3.A.Manivannan
Power agent of Valarmathi,
Sankari and Charulatha

4.N.Valarmathi

5.Sankari

6.N.Charulatha

7.Rani

8.The Sub Registrar,
Registration Department,
Thiruporur,
Kancheepuram District

...Respondents in both W.Ps

Prayer in W.P.No.17602 of 2013 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus, calling for the records pertaining to the order passed by the fourth respondent in patta No.555 issued vide proceedings TKSA/582/1422 dated 25.04.2013 and quash the same and direct the respondents to restore the original patta on the respective parties as was in survey No.312/1A and 312/1B in Sathankuppam Village, now Pudupakkam Village, Tiruporur Taluk, Kancheepuram District.

Prayer in W.P.Nos. 34189 & 34190 of 2013 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari, calling for the records pertaining to the order passed by the second respondent in his proceedings Na.Ka.No.3963/2013/A2 dated 28.11.2013 and quash the same.



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In W.P.No.17602 of 2013

For Petitioner : M/s.Hema Sampath
Senior Counsel

For R1 to R4 : Mr.Richardson Wilson
Government Advocate

For R5 to R9 : Mr.T.T.Ravichandran

In W.P.Nos. 34189 & 34190 of 2013

For Petitioners : M/s.Hema Sampath
Senior Counsel

For R1, R2 & R8 : Mr.Richardson Wilson
Government Advocate

For R3 to R7 : M/s.P.Bagyalakshmi

O R D E R

W.P.No.17602 of 2013 has been filed to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the fourth respondent in patta No.555 issued vide proceedings TKSA/582/1422 dated 25.04.2013 and quash the same and direct the respondents to restore the original patta on the respective parties as was in survey No.312/1A and 312/1B in Sathankuppam Village, now Pudupakkam Village, Tiruporur Taluk, Kancheepuram District.

2. W.P.Nos. 34189 & 34190 of 2013 have been filed to issue a Writ of certiorari, calling for the records pertaining to the order passed by the second respondent in his proceedings Na.Ka.No.3963/2013/A2 dated 28.11.2013 and quash the same.

3. The petitioners in all the writ petitions were granted patta in respect of the subject property. They are in possession and enjoyment of their respective properties. There are civil proceedings between the petitioners and the respondents 3 to 7 herein. While being so, on the strength of the proceedings, the respondents 4 to 6 herein approached the



second respondent for transfer of patta relying upon the Koorchit. On receipt of the same, the second respondent herein, after issuance of the notice to the petitioners, conducted enquiry. After conducting detailed enquiry, issued patta in favour of the private respondents by an impugned order. When the patta already stands in the name of the petitioners, if there is any grievance over the patta, the person has to file an appeal as provided under Section 12 of the Patta Pass Book Act before the appellate authority i.e., The Revenue Divisional Officer.

4. However, the second respondent considered the said request and cancelled the patta already granted in favour of the petitioners. The power of the Tahsildar is to modify and change the patta as provided under Section 10 of the Patta Pass Book Act. Section 10 of the Patta Pass Book Act is extracted hereunder :

"10. Modification of entries in the patta pass book :

(1) Where any person claims that nay modification is required in respect of any entry in the patta pass book already issued under Section 3 either by reason of the death of any person or by reason of the transfer of interest in the land or by reason of any other subsequent change in circumstance, he shall make an application to the Tahsildar for the modification of the relevant entries it the patta pass book.

(2) An application under sub-section (1) shall contain such particulars as may be prescribed and shall be accompanied by the documents, if any, relied on by the applicant as evidence in support of his claim.

(3)(a) Before passing an order on an application under sub-section (1), the Tahsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the parties concerned to make their representations either orally or in writing. If the Tahsildar decides that any modification should be made in respect of entries in the patta pass book, he shall pass an order accordingly and shall make such consequential changes in the patta pass



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book, as appear to him to be necessary, for giving effect to his order.

(b) If the Tahsildar decides that there is no case for effecting any modification in the entries in the patta pass book, he shall reject the application.

(c) An order under Clause (a) or clause (b) shall contain the reasons for such order and shall be communicated to the parties concerned in such manner as may be prescribed. "

5. Accordingly, the Tahsildar can modify with regard to the entries under the Patta Pass Book Act. Therefore, the Tahsildar has no power to cancel the patta on any grounds. Therefore, the second respondent has no power to pass the impugned order on the application filed by the private respondents herein. On that sole ground, the impugned order is liable to be set aside. If the respondents are aggrieved over the patta issued in favour of the petitioners, they are directed to file an appeal before the first respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the appeal, the first respondent is directed to issue notice to the petitioners herein and all the parties concerned and after giving an opportunity of hearing to all the parties, and pass orders on merits and in accordance with law within a period of sixteen weeks thereafter.

6. With the above directions, these Writ Petitions stand allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

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To

1.District Revenue Officer,
Kancheepuram District,
Kancheepuram.



2.Revenue Divisional Officer,
Kancheepuram.

3.Tahsildar,
Chengalpattu,
Kancheepuram District.

4.Tahsildar,
Thiruporur,
Kancheepuram District.

5.The Sub Registrar,
Registration Department,
Thiruporur,
Kancheepuram District

+1cc to M/s.S.Kamadevan, Advocate SR.No.43478

+1cc to M/s.B.Balavijayan, Advocate SR.No.43477

+1cc to M/s.P.Bhagyalakshmi, Advocate SR.No.43484

+1cc to the Government Pleader SR.No.43921

W.P.Nos. 17602, 34189 & 34190 of 2013
and

M.P.Nos. 1 & 2 of 2013

JP-II(CO)
RVM(27/09/2021)