IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.5380 of 2013
and
M.P.No.2 of 2013

C.Rajendran ...Petitioner

Vs.

1. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

2. The Revenue Divisional Officer,
Chengalpet,
Kancheepuram District.

3. The Tahsildar,
Thirukalukundram Taluk Office,
Thirukalukundram,
Kancheepuram District.

4. Danusu Naidu,
5. Sambanda Chettiar ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the proceedings dated 23.11.2012 issued in Na.Ka.No.4707/2012 N4 by the first respondent, quash the same and consequently direct the second respondent to pass necessary orders in accordance with law after hearing both sides for cancellation of patta within the time to be stipulated by this Court.

For Petitioner	:	Mr.R.Bharath Kumar
For Respondents	:	Mr.C.Jayaprakash Government Advocate (for R-1 to R-3)
	:	Mr.Goutham for Mr.Rajinikanth (for R-4)
	:	Mr.S.Kumaradevan (for R-5)

O R D E R

This petition has been filed seeking to quash the proceedings dated 23.11.2012 in Na.Ka.No.4707/2012 N4 on the file of the first respondent and consequently direct the second respondent to pass necessary orders in accordance with law, after hearing both sides for cancellation of patta within the time to be stipulated by this Court.

2. The case of the petitioner is that the land admeasuring 45 cents comprised in Old Survey No.161/7, New Survey No.29/8 situated at Vasavasamudram, Thirukalukundram Taluk, Kancheepuram District, originally belonged to one K.R.Kishtappa Chettiar. The fifth respondent herein purchased 36 cents out of 45 cents from the said K.R.Krishtappa Chettiar by registered sale deed, dated 15.11.1982, vide document No.480/1983. In turn, the petitioner purchased the said property from the fifth respondent, the registered sale deed dated 31.07.1997 vide document No.1917 of 1997. When the petitioner approached the third respondent for issuance of patta on the strength of the sale deed, he was informed that the third respondent issued summons at the instance of the fourth respondent for cancellation of patta issued in favour of the fifth respondent. Again, the fourth respondent submitted another application for cancellation of patta before the second respondent and the second respondent issued summons to the petitioner and the fifth respondent for enquiry. In fact, the petitioner filed an appeal before the second respondent and submitted his detailed representation along with relevant documents. While that being so, again the fourth respondent approached the first respondent only as against the fifth respondent for cancellation of patta issued in favour of the fifth respondent. The first respondent, without jurisdiction, simply cancelled the patta issued in favour of the fifth respondent, that too, without adding the petitioner as a party to the proceedings, since the petitioner purchased an extent of 36 cents out of 45 cents in the land comprised in S.No.29/8. The first respondent has no power to cancel the patta issued in favour of the fifth respondent directly.

3. The learned counsel for the petitioner relied upon the judgment reported in 2012 (3) CTC 823 (T.R.Dinakaran vs. The Revenue Divisional Officer), in which it has been held as follows:-

> “13. For proper appreciation of the power conferred on various authorities under the Tamil Nadu Patta Pass-Book Act, 1983, it is relevant to refer Sections 10, 12 and 13 which are as follows:-
>
> "10.Modification of entries in the patta pass-book.- (1) Where any person claims that any

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 circumstances, he shall make an application to the Tahsildar for the modification of the relevant entries in 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-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 reason for such order and shall be communicated to the parties concerned in such manner as may be prescribed."

12.Appeal.- Any person aggrieved by an order made by the Tahsildar under this Act may, within such period as may be prescribed, appeal to such authority as may be prescribed and the decision of such authority on such appeal shall subject to the provisions of section 13, be final.

13.Revision.- Any officer of the Revenue Department not below the rank of District Revenue Officer authorised by the Government, by notification in this behalf for such area as may be specified in the notification, may of his own motion or on the application of a party call for and examine the records of any Tahsildar or appellant authority within his jurisdiction in respect of any proceeding under this Act and pass such orders as he may think fit: Provided that no such order prejudicial to any person shall be made unless he has been given a reasonable opportunity of making his representation."

14.Likewise the relevant Rules under the Tamil Nadu Patta Pass Book Rules, 1987, namely, Rules 12, 14 and 15 are reproduced hereunder:-

"12.Application for modification of entries in Patta Pass-Book.- (1) Application for modification of entries in the Patta Pass-Book under Section 10 of the Act shall be in Form - VI and shall be made within ninety days from the date of acquisition of right:-

Provided that the Tahsildar may for just and sufficient reasons allow a further period of not exceeding ninety days for making an application for this purpose.

(2) The application under sub-rule (1) shall be affixed with court fee labels of Rs.3 towards fee for this purpose.

14.Appeal. - An appeal against any order of the Tahsildar passed under the Act shall be filed before the officer in charge of Revenue Division in whose jurisdiction the property lies within a period of thirty days from the date of the receipt of the order.

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 by Notification for revision of an order passed by the Tahsildar or the appellate authority shall be filed within ninety days from the date of receipt of the order.

(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 cause for not presenting it within the said period."

15.From the reading of the above said provisions under the Tamil Nadu Patta Pass Book Act, 1993 and the Rules made thereunder, it could be seen that the Tashildar is the competent authority under Section 10 for modifications of the relevant entries in the Patta Pass Book and such modifications are also possible only under the following circumstances, namely, (i) by reason of the death of any person; or (ii) by reason of the transfer of interest in the land; or (3) by reason of any other subsequent change in circumstances. Therefore, the Tashildar is empowered to make modification of entry in the Patta Pass Book only under those three circumstances as referred above. Even for making such modification based on application filed by the person, the Tashildar is bound to give reasonable opportunity to the parties concerned to make their representations either orally or in writing. Thereafter, the Tashildar shall pass an order accordingly, and also make such consequential changes in the Patta Pass Book as appears to be necessary for giving effect to his order. If the Tashildar decides that there is no necessity for effecting any modification, he shall reject the application seeking for modification.

16.Section 12 of the said Act contemplates an appeal against an order made by the Tashildar under the said Act. Rule 14 of the Tamil Nadu Patta Pass Book Rules, 1997, states that the Revenue Divisional Officer is the appellate authority to hear the appeal to be preferred under Section 12. Section 13 contemplates further revision to the Revenue Divisional Officer either on the application of a party or in his own motion."

4. From the discussion of the above provisions relating to the powers conferred on the Revenue Authorities, it could be seen that the District Revenue Officer, viz., the first respondent herein can exercise the power only as an Revisional Authority under Section 13, that too as against an order passed by the Revenue Divisional Officer or on his own notion to call for and examined the records of any Tahsildar or Appellate Authority viz., the Revenue Divisional Officer.

5. In the case on hand, the fourth respondent originally approached the third respondent and thereafter, the second respondent, by impleading the petitioner. When the petitioner was called for enquiry, he also submitted his explanation with documents. While that being so, without impleading the petitioner herein, again the fourth respondent approached the

first respondent directly and impleaded only the fifth respondent herein. Thereafter, the first respondent passed the impugned order, thereby directed the third respondent to sub-divide the property comprised in S.No.29/8 to an extent of 17 cents cents and issued patta in favour of the fourth respondent. Therefore, the first respondent has no jurisdiction to pass the order, that too without impleading the petitioner as the party to the proceedings, since admittedly the petitioner purchased the property from the fifth respondent, vide registered sale deed dated 31.07.1997 vide document No.1917/1997.

6. In view of the above discussion, the order passed dated 23.11.2012 is set aside. Accordingly, this Writ Petition is allowed. However, the fourth respondent is directed to approach the second respondent as against the patta issued in favour of the fifth respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to issue notice to the petitioner and the fifth respondent, and after affording full opportunity of hearing to the parties concerned, pass orders on merits and in accordance with law, within a period of twelve weeks thereafter. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kv

To

1.The District Revenue Officer,
Kancheepuram District,Kancheepuram.

2.The Revenue Divisional Officer,
Chengalpet, Kancheepuram District.

3.The Tahsildar,
Thirukalukundram Taluk Office,
Thirukalukundram, Kancheepuram District.

+1cc to Mr.R.Bharath Kumar, Advocate Sr No.41423
+1cc to the Government Pleader Sr No.41084

W.P.No.5380 of 2013

PCH (CO)
PR (20/09/2021)