IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. NOS.13539, 13545, 13547, 13549 AND 14564 OF 2021
AND
W.M.P.NOS.14404, 14405, 14407, 14411,14412, 14414, 14415, 15453 AND 15454 OF 2021

N.Kumaravelu ...Petitioner in W.P. No.13539 of 2021

S.Prakash ...Petitioner in W.P. No.13545 of 2021

A.Rajamani ...Petitioner in W.P. No.13547 of 2021

E.Mangayarkarasi ...Petitioner in W.P. No.13549 of 2021

B.M.Arun
Rep. by his Power Agent,
B.K.Mohan ...Petitioner in W.P. No.14564 of 2021

Vs

1.The Commissioner,
Land Reforms Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The District Collector,
Chengalpattu District,
Chengalpattu - 603 001.

3.The District Revenue Officer,
Chengalpattu District,
Chengalpattu - 603 111.

4.The Revenue Divisional Officer,
Tambaram Taluk,
Chengalpattu District - 603 002.

5.The Tahsildar,
Tambaram Taluk,
Chengalpattu District - 603 002.
...Respondents in all Writ Petitions

COMMON PRAYER : These Petitions have been filed under Article 226 of the Constitution of India, praying for to issue Writ of

Certiorarified Mandamus to call for the records relating to the proceedings of the 4th respondent herein in Proceeding No.1415/2019/A dated 24.12.2019 and quash the same and consequently restore Patta Nos.448, 449, 663, 302 and 562 & 849 and issue online patta in favour of the petitioners herein and pass appropriate orders accordingly.

In All Writ Petitions

For Petitioners :: M/s.B.Aparna

For Respondents :: Mr.Yogesh Kannadasan
(Government Advocate)

C O M M O N O R D E R

These Writ Petitions have been filed under Article 226 of the Constitution of India, praying for to issue Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 4th respondent herein in Proceeding No.1415/2019/A dated 24.12.2019 and quash the same and consequently restore Patta Nos.448, 449, 663, 302 and 562 & 849 and issue online patta in favour of the petitioners herein and pass appropriate orders accordingly.

2. The learned counsel for the petitioners would submit that the petitioners have purchased the property situated at Thiruvancherry (Mappedu) Village, Tambaram Taluk, Chengalpet District in the aforesaid Survey numbers by virtue of registered Sale Deeds in various documents on various dates. Ever since the purchase of the aforesaid property, the petitioners have been in absolute possession and enjoyment of the same having Patta in various number as aforesaid and reflected the petitioners' previous owner's name in "A" Register. Further, the petitioners have been paying the statutory dues in respect of the said property. While the petitioners were trying to get a copy of patta through Government website by entering their respective Patta Number, but the Patta did not reflect in the Government Website. Immediately, the petitioners had approached the 4th respondent regarding the issue and they informed petitioners that the unavailability of the copy of Patta was just because of some technical issues/drawbacks. They also promised the petitioners that they will rectify the problem shortly, but the rectifications were not made by them for more than two years in spite of repeated requests and follow ups with the authorities concerned.

3. It has been further submitted that since the respondents did not take appropriate steps to rectify technical issue, the petitioners approached the 4th respondent and made a

representation dated 21.02.2017 along with entire set of document. Following the said representation, petitioners had approached the 3rd respondent office several times, but no action was taken by them on their representation. In the meantime, the representation dated 21.02.2017 was forwarded to the 2nd respondent for taking necessary action. Thereafter, 3rd respondent had conducted an enquiry on 23.05.2017, but no order was passed and kept pending for long time. Hence, while the petitioners approached this Hon'ble Court by filing writ petitions seeking for a direction to consider the representation dated 21.02.2017, this Court by its order dated 18.11.2019 directed the 3rd respondent to complete the enquiry proceedings on the representation of the petitioners herein within a period of three weeks from the date of receipt of copy of that order and pass appropriate orders in accordance with law and communicate the same to the petitioners herein. Accordingly an order was passed on 24.12.2019 in proceedings No.1415/2019/A by the 3rd respondent stating that originally a larger extent comprised in S.No.21/3 etc., of Thiruvanchery Village and certain survey numbers in Agaram then villages owned by one named Vittalnatha Naidu. As per the provisions of the Tamilnadu Land Reforms (Fixation of ceiling on land) Act, 1961, an extent of 4.00 acres in S.No.21/3 of Thiruvancherry Village held by the said Vittalnatha Naidu was declared as surplus lands by the Government. In this surplus land, the said S.No.21/3 of Thiruvancherry Village is also included. In the said S.No.21/3 of Thiruvanchery Village an extent of 4.00 acres of land was declared as surplus land. In the said order, the 3rd respondent has failed to state whether notices were given to the said Vittalnatha Naidu regarding ceiling and if any enquiry was conducted before declaring the lands as surplus. Further the 3rd respondent failed to mention the total extent of land which belonged to Vittalnatha Naidu out of which surplus lands were declared and also failed to mention the boundaries for the said ceiling land of 4. 00 acres.

4. The learned counsel for the petitioner would further submit that the 3rd respondent states that after following procedures, the extent of 4.00 acres of lands were reported to have been assigned in favour of the following individuals noted against each by the competent officer, (land reforms) letter No.Na.Ka.C1/MAR4/437 dated 17.09.1982.

Sl. No	Name of the assignee	Survey Nos.	Extent assigned
1	Venugopal S/o. Sundaram	21/3	1.50 acres
2	Devasakthi S/o. Jegadeesan	21/3	0.75 acres
3	Subramani S/o. Murugan	21/3	0.25 acres
4	Subramani S/o. Murugan	21/3	1.50 acres

In the above assignment, the 3rd respondent has not revealed any details about records in Na.Ka.C1/MR1 to MR4 and V8 which also relates to the ceiling and allocation of lands and which is vital to the present issue in hand.

5. It has been further submitted that the 3rd respondent has stated that one Mr. Venugopal and Mr. S. Durai had approached and obtained sale deed in their favour from T.V. Jayachandran who is the son of Vittalnatha Naidu and further sold certain pieces of lands to third parties and approached the Assistant Commissioner, Villupuram stating that he had not sold the land and obtained an order confirming the assignment in his favour after 30 years and after the repeal of land ceiling Act. Pursuant to the order of confirming the assignment, the 4th respondent has ordered sub-division and separate registry in favour of assignee. Thereafter, by virtue of patta granted to Mr Venugopal, he sold 1.42 acres of land comprised in S.No.21/3 part to Tvl. Ruby Builders and promoters. The Petitioners' extent land is no way connected with the above said sale made by Mr.Venugopal and Mr.S.Durai.

6. The learned counsel for the petitioner would further submit that when the petitioners have been continuously following up with the 2nd and 3rd Respondent for issuing online patta, they have informed that it was only a technical problem and same shall be rectified and online patta will be issued after rectifying the technical issue. However, to the shock and surprise of the petitioners, the Respondent reveals in the order dated 24.12.2019 that an extent of 4.00 acres in S.No. 21/3 is under land ceiling and patta cannot be granted to the petitioner herein since the lands are classified as government lands. When the petitioners' land do not belong to the said extent of 4.00 acres in S.No. 21/3. Further, the 3rd Respondent has cancelled Petitioners' respective pattas as aforesaid without giving notice about the cancellation and any reason for cancelling the same.

7. It has been further submitted that it is mandatory under the Tamilnadu Patta Passbook Act, 1983 that the notice has to be issued for cancellation of patta to the landowners who are in the possession of the property for the continues period. The total extent in S.No.21/3 is 12.30 acres out of which 4.00 acres is said to be the surplus lands and allotted to certain persons. The petitioners lands do not belongs to the said surplus lands. However, the 2nd and 3 Respondent have arbitrarily cancelled the pattas of the petitioners herein which already stood in previous owner's name. Without affording an opportunity to the Petitioners before cancelling their patta amounts to violation of the principles of natural justice and also violation of the Tamilnadu Patta Passbook Act, 1983. In the order dated

24.12.2019 of the 3rd Respondent, Petitioners' request for grant of patta is rejected since the land is classified as Government Tharisu. However, the 3rd Respondent has deliberately ignored the fact that the 4th Respondent has already issued patta in the name of the previous land owners and the same was cancelled without any notice. The petitioners have been paying tax for to the authorities which are now alleged as surplus lands by the 3rd Respondent on contrary. There is also no material to show that the petitioners' land is under ceiling and if there is a ceiling, there is no material to show that Petitioners' extent of land is allotted to anyone. The 3rd Respondent has not furnished detailed report regarding date of initiation of land ceiling proceedings under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. Subsequently, the details as to when the proceedings were completed, when the compensation had been paid, to whom it was paid, what is the quantum of compensation and mode of compensation, when the property had been taken from the erstwhile owners and handed over to the Revenue Department are not furnished. Further, the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 has been pealed. Therefore, the owners of the land are entitled for patta.

8.It has been further submitted that the lands were acquired in the year 1982 and at that point of time it was a rural area. Thereafter, the area became urbanized and authorities have failed to update the above ceiling to the urban land Ceiling Department. Further, the Assistant Commissioner/ Public Information officer, Urban Land Tax Department has given a reply letter dated 09.04.2018 stating that the petitioner land is not under the urban land ceiling. Therefore, it is clear that the petitioners' land do not come under the above said ceiling. The Petitioners' land is no way connected with the lands said to be surplus by the 3 Respondent. Even assuming Petitioners' land is acquired in the year 1982 and as such, after a lapse of around 38 years, the property had not been utilized by the Government, which indicates that there was no solemn intention of the Government in making use of the property. However, the petitioners are in the possession of the property from the date of purchase. Therefore, the Respondents should be restrained from interfering with the peaceful possession of their property. The whole issue of cancelling the patta has been carried out by the authorities concerned absolutely without any authority and without following the due process of law.

9. The learned counsel for the petitioner would submit that the lawful owners like the petitioners, have been deprived of their rights over the property that has purchased for valuable consideration. Hence, The petitioner have preferred revision on 20.02.2020 before the District Revenue Officer, Chengalpet

against the order of the 3rd respondent in proceedings in No.1415/2019/A dated 24.12.2019. The Petitioners have not been called for an enquiry so far. Therefore, the petitioners have given a reminder notice on 26.07.2020 to the 4th Respondent to initiate enquiry in Revision Petition dated 20.02.2020. Since there is no reply nor appropriate orders on their Revision Petition dated 20.02.2020, the petitioners have filed the present Writ petitions for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 3rd respondent in No 15/2019/A dated 24.12.2019 and quash the same and pass appropriate orders accordingly.

10.The learned Government Advocate appearing for the respondents would submit that in the impugned order challenged by the petitioners herein in R.C. No.1415/2019/A dated 24.12.2019, Revisional Provision has been clearly indicated by the authority concerned to file a Revision Petition before the District Revenue Officer, Chengalpet/3rd respondent herein within a period of 60 days from the date of receipt of the orders. Further, it is seen that the petitioners also have preferred revision petition before the District Revenue Officer, Chengalpet on 20.02.2020 and also sent a reminder notice on 26.07.2020 to the 3rd respondent to initiate enquiry on the Revision Petition dated 20.02.2020. After filing the revision petition before the 3rd respondent herein, the petitioners have straight away filed the present writ petitions before this Court for their relief without exhausting revisional remedy on the file of the 3rd respondent herein, before passing the orders in the revision petition. In view of the pandemic situation and election duty, the 3rd respondent was not able to pass appropriate orders on the Revision Petition filed by the petitioners herein. Hence, while the Revision petition is pending before the 3rd respondent, the petitioners have filed the present Writ petitions straighaway without exhausting revisonal remedy available to them which is not acceptable by Law and under any circumstances. Hence, these Writ petitions are liable to be dismissed.

11.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents as well as perused the material available on records.

12. Having considering the facts and circumstances of the case and the submissions of the learned counsel on either side, it is seen that while the petitioners herein have preferred Revision Petition dated 20.02.2020 before the 3rd respondent challenging the impugned order dated 24.12.2019 in proceedings No.1415/2019/A passed by the 4th respondent herein, the petitioners without exhausting the remedy of the Revision Petition dated 20.02.2020, have filed the present Writ Petitions

straight away for appropriate orders against the aforesaid impugned order. However, since the 3rd respondent has not passed any orders and sent any reply to the petitioners herein on their Revision petition 20.02.2020, even after lapse of one and half year, this Court without expressing any opinion with regard to the merits of the case, directs the 3rd respondent to pass appropriate orders on their Revision petition dated 20.02.2020 within a period of six months from the date of receipt of copy of this order in accordance with law after affording sufficient opportunity of hearing to the parties concerned.

13. In the result, the Writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed if any. There shall be no order as to costs.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

Lbm

To:

1.The Commissioner,
Land Reforms Department,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The District Collector,
Chengalpattu District,
Chengalpattu - 603 001.

3.The District Revenue Officer,
Chengalpattu District,
Chengalpattu - 603 111.

4.The Revenue Divisional Officer,
Tambaram Taluk,
Chengalpattu District - 603 002.

5.The Tahsildar,
Tambaram Taluk,
Chengalpattu District - 603 002.

+1cc to the Government Pleader SR.No.53208

W.P. Nos.13539, 13545, 13547, 13549 and 14564 of 2021 and W.M.P.Nos.14404, 14405, 14407, 14411,14412, 14414, 14415, 15453 and 15454 of 2021

KSM(CO)
RVM(06/01/2022)