IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 29.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.23492 of 2018
and
W.M.P.No.27406 of 2018

S.Ramesh ... Petitioner

-Vs-

1.The Revenue Divisional Officer
Ranipet, Vellore District.

2.The Tahsildar,
Arakkonam,
Vellore District.

3.Prema Nancy Stella,
S/o. Robin Jebakumar ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 2nd respondent made in proceedings in A2/427/2018 dated 24.08.2018 and quash the same.

For Petitioner	:	No appearance
For Respondents	:	Mr.Richardson Wilson, Government Counsel For RR1 & 2 Mr.Raja Srinivas - for R3

O R D E R

The prayer sought for herein is for the issuance of a Writ of Certiorari to call for the records of the 2nd respondent made in proceedings in A2/427/2018 dated 24.08.2018 and quash the same.

2. In respect of the properties at S.No.293/1, No.103, Iluppaithandalam, Arakkonam Taluk, Vellore District and S.No.278/1, Chittoor and S.No.22/2, it is the case of the third respondent that those properties belonged to the 3rd respondent's husband and he had inherited those properties as ancestral properties and after him, the third respondent has inherited the same. While so, it is the further case of the third respondent

that, the petitioner was able to get patta in respect of those lands in his favour, which action, according to the third respondent is an unlawful and fraudulent action. Therefore, in order to rectify the patta issued in favour of the petitioner in respect of the land referred to above, the third respondent had given a representation to the Revenue Tahsildar, ie., the second respondent herein, who, on receipt of the said complaint from the third respondent, issued the summons dated 24.08.2018, directing the petitioner to appear before the second respondent for an enquiry on 10.09.2018. The said summons is under challenge in this writ petition.

3. When the case is taken up for hearing today, there is no representation for the petitioner. However, the petitioner claimed that, the properties in question were owned by the mother and father of the petitioner, from whom the petitioner inherited the property.

4. Whether the petitioner or the third respondent is the lawful owner of the properties in question can be agitated before the concerned legal forum. However, insofar as the mutation that has been effected or to be effected in the revenue records are concerned, ie., the issuance of patta either in favour of the petitioner or the third respondent, it is for the revenue authorities to decide the same, of course on the basis of the available records.

5. If at all any complaint is received from the third respondent that the patta has been wrongly issued in favour of the petitioner, which according to the third respondent has been obtained by the petitioner fraudulently or by misrepresentation, such kind of representation or complaint received by the Revenue Tahsildar, shall be looked into and be decided.

6. In this context, the procedure contemplated under the Patta Passbook Act has to be followed and therefore only in this regard, the second respondent Tahsildar, in order to conduct an enquiry, has issued the summons dated 24.08.2018, whereby the petitioner has been directed to appear before the second respondent on 10.09.2018 at 11.00 A.M., at his office. The said summons issued to the petitioner is now under challenge, without any plausible reasons.

7. It is a settled position that when a Statutory Authority is vested with the power to act upon under the provisions of the Statute and accordingly if the Statutory Authority is trying to act upon the same, the said Authority cannot be prevented or precluded by any authority including the orders of the Court. This proposition flows from the settled fundamental principle that no statutory authority can be prevented from acting upon as

per the statute. In the present case in hand, the second respondent has issued summons to the petitioner to conduct enquiry in respect of the complaint given by the third respondent. Since the said action on the part of the second respondent is the procedure to be adopted as per the Statute, this Court finds no fault with the said action of the second respondent and therefore the impugned summons cannot be successfully challenged by the petitioner for any plausible reason.

8. Hence, in that view of the matter, this Court feels that, no orders as has been sought for in this writ petition can be granted at this juncture and the petitioner has to act upon as per the summons issued and cooperate with the second respondent to complete the enquiry.

9. In this context, after the enquiry, if at all any order is passed against the interest of the petitioner, it is open to him to challenge the same in the manner known to law. However, for appearing before the second respondent the petitioner cannot seek a shelter by filing the present writ petition with the aforesaid prayer.

10. Accordingly, this Court feels that, the writ petition is liable to be rejected. Hence it is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

KST

To
1.The Revenue Divisional Officer
Ranipet, Vellore District.

2.The Tahsildar,
Arakkonam,
Vellore District.

+1cc to Mr.M.G.Ramachandran, Advocate, S.R.No.29977

W.P.No.23492 of 2018

PL(CO)
CB(19/07/2021)