



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.1083 & 1224 of 2014  
and M.P.Nos.1 & 1 of 2014

S.Nagaraj ... Petitioner in  
W.P.No.1083 of 2014

M.Krishna Reddy ... Petitioner in  
W.P.No.1224 of 2014

-Vs-

The Sub-Collector,  
Hosur. ... Respondent in both W.Ps

Common Prayer :- Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records made in Roc.No.1638/2008/B2 dated 19.12.2013 issued by the respondent and quash the same and consequentially forbear the respondent from interfering with the petitioners' possession and enjoyment of the properties more particularly described in the schedule in the writ petitions.

In both W.Ps  
For Petitioner : Mr.G.Ethirajulu  
For Respondent : Mr.M.R.Gokul Krishnan  
Government Advocate.

COMMON ORDER

These Writ Petitions have been filed for the issuance of Certiorarified Mandamus calling for the records made in Roc.No.1638/2008/B2 dated 19.12.2013 issued by the respondent and quash the same and consequentially forbear the respondent from interfering with the petitioners' possession and enjoyment of the properties.

2. Heard Mr.G.Ethirajulu, learned counsel appearing for the petitioners and Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondent.

3. The case of the petitioner is that the petitioner challenged the order passed by the respondent thereby dismissing the appeal filed as against the order passed by the Settlement Tahsildar, thereby cancelled the Ryotwari Patta by an order dated 09.02.2008. In the earlier ground of



litigation the petitioners challenged the order passed by the respondent herein in W.P.No.19955/2008 and this Court by an order dated 02.08.2011 had set aside the order passed by the respondent and remanded back to first respondent for reconsideration. The relevant portion of the order passed by this Court in W.P.No. 19955 of 2008, reads as follows:

" (i) It is also to be further noticed that the principles of natural justice have not been followed by the respondents while passing the impugned order. The Act contemplates a particular procedure to conduct enquiry and hear the parties concerned and thereafter, a decision is to be taken by the competent authority and such a decision is also to be communicated. If that procedure is not followed, it amounts to violation of principles of natural justice. Law is well settled that if the procedures contemplated under the Act/Rules are not adhered to by the competent authority, it amounts to violation of principles of natural justice. This position of law is fortified by the judgment of the Apex Court reported in 2010 (5) SCC 791 (Mysore Urban Development Authority Vs. Veer Kumar Jain).

(ii) For all the reasons stated above, the impugned order passed by the first respondent is set aside. However, looking into various factors and the object of the conditional Ryotwari patta and the manner in which the option has been exercised, the matter requires detailed reconsideration by the competent authority, and therefore, the matter is remanded to the first respondent for fresh consideration and passing orders, after following the procedures contemplated under Rules 16, 19 and 33(1) to (7) of the Rules and the other provisions of the Act and the Rules, after giving an opportunity of hearing to all the parties concerned and on a perusal of the entire of the entire records. It is open for the parties in the writ petition, the persons concerned and the stake-holders in this case to raise all the contentions which are all agitated in this writ petition, before the competent authority. The competent authority shall pass appropriate orders, uninfluenced by any of the observations made in this writ petition, on merits and in accordance with law, as expeditiously as possible."



4. Thereafter, the respondent did not take any steps to conduct enquiry as directed by this Court. Therefore, the petitioners were constrained to file a contempt petition before this Court. In the contempt petition, the respondent filed a counter and submitted that the petitioners were already issued notice calling upon them to attend the enquiry. On the said submissions, the contempt petitions were closed. One of the petitioner herein, appeared before the respondent for enquiry on 17.12.2013 along with his counsel and sought for adjournment for ten days to argue their case. However, their request was rejected for the reason that it causes further delay especially it was a summary enquiry and there were no new facts brought forwarded by them.

5. It is also seen from the records that originally the enquiry was posted on 23.12.2013 and thereafter by a notice dated 11.12.2013, the enquiry was preponed to 17.12.2013, in view of the contempt petition filed by the petitioners. Therefore, the only contention raised by the petitioners is that the directions issued by this Court was not complied by the respondent once again and passed the impugned order. It violates the principles of natural justice. On the sole ground the impugned order cannot be sustained as against the petitioners.

6. Accordingly, the impugned order vide Roc.1638/2008/B2 is hereby set aside. The matter is remanded back to respondent for fresh consideration as directed by this Court, by an order dated 02.08.2011. It is open to the parties concerned to raise their all contentions raised in the writ petitions before the respondent herein. It is also made clear that the respondent is directed to consider and pass orders, after giving an opportunity of hearing to the parties concerned, on merits and in accordance with law within a period of 16 weeks from the date of receipt of a copy of this order.

7. With the above directions, these writ petitions are allowed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

The Sub-Collector, Hosur.

+1 cc to Mr.G.Ethirajulu, Advocate Sr.NO. 46748

+1 cc to Government Pleader Sr.NO. 46898, 46897

W.P.Nos.1083 & 1224 of 2014  
and M.P.Nos.1,1 of 2014

A.SK(11.10.2021)