



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 24.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.4911 of 2016

and

W.M.P.No.4260 of 2016

1. Tmt.R.Palaniyamal
W/o. Ramyasamy

2. R.Arumugam
S/o. Late Ramasamy

...Petitioners

-Vs-

1. The Principal Secretary &
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.

2. The Settlement Officer,
O/o. The Settlement Officer,
Chepauk, Chennai - 600 005.

3. The Assistant Settlement Officer - South,
O/o. The Settlement Officer,
Tiruppur District.

4. The District Collector,
Tirupur District, Tirupur.

5. The Revenue Divisional Officer,
Tirupur District.

6. The Tahsildar,
Palladam, Tirupur District.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records of the proceedings No.Na.Ka.1297/2013/A2 passed by the 5th respondent dated 13.07.2014, and quash the same and consequently direct the 1st respondent to reverse the entry in the "A Register and chitta register maintained by the respondents 2 and 3 herein, in so far as Survey No.300/3, Pongulur Village, Palladam Taluk, Tirupur District is concerned from "Anadeenam" to "Patta Lands" and issue patta in favour of the petitioners to the lands situated in Survey No.300/3, Pongulur Village, Palladam Taluk, Tirupur District.



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For Petitioners : Mr.K.Rajendra Prasad
For M/s. D.B.R.Prabhu

For Respondents : Ms.Akila Rajendran
Government Counsel

O R D E R

The prayer sought for herein is for issuance of a Writ of Certiorarified Mandamus calling for the entire records of the proceedings No.Na.Ka.1297/2013/A2 passed by the 5th respondent dated 13.07.2014, and quash the same and consequently direct the 1st respondent to reverse the entry in the "A Register and chitta register maintained by the respondents 2 and 3 herein, in so far as Survey No.300/3, Pongalur Village, Palladam Taluk, Tirupur District is concerned from "Anadeenam" to "Patta Lands" and issue patta in favour of the petitioners to the lands situated in Survey No.300/3, Pongalur Village, Palladam Taluk, Tirupur District.

2. In respect of the property at S.No.300/3 to the extent of 1.78 Acres in Survey No.300/3, Pongalur Village, Palladam Taluk, Tiruppur District, the petitioners sought for patta and the issue has been decided by the fifth respondent ie., Revenue Divisional Officer, Tiruppur District by a proceedings dated 13.07.2014. In the said proceedings, the fifth respondent has stated that, the land in question if at all claimed to be the property of the petitioners' forefathers, they could have appeared before the authorities concerned during UDR Survey in 1968 and accordingly could have obtained Ryotwari Patta. They have not done so and the land in question since has not been issued any Ryotwari Patta and it has been shown in the Revenue Records as Anadeenam lands, the plea of the petitioners to grant patta in respect of the land in question to and in favour of the petitioners cannot be accepted and accordingly their plea was rejected through the impugned order. Challenging the same, the present writ petition has been filed with the aforesaid prayer.

3. Though submissions were made on merits of the issue by the learned counsel for the petitioners, he also wanted to produce some more documents to establish the case of the petitioners.

4. It was however pointed out by Ms.Akila Rajendran, learned Government Counsel appearing for the official respondents that, as against the order passed by the fifth respondent, which is impugned herein, appeal can be filed before the District Revenue Officer, before whom if appeal is filed, where it is open to the petitioners to make their submissions by



producing the documents in support of their claim and accordingly the issue would be decided and without resorting to the same, the petitioners have straight away approached this Court and hence she seeks for rejection of this writ petition.

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5. The said legal position is not controverted by the learned counsel for the petitioners. However, he would submit that, if the petitioners are driven to the appellate authority ie., the District Revenue Officer at this juncture, even if the petitioners file any appeal against the impugned order, no proper opportunity of being heard to put forth their case would be given to the petitioners and therefore, if the fair hearing is ensured, certainly these petitioners do not have any objection in preferring an appeal against the impugned order. Therefore, the learned counsel for the petitioners seeks liberty from this Court to file an appeal against the impugned order at this length of time.

6. I have heard the submissions made by the learned counsel on either side and also perused the materials placed on record.

7. Whatever the submissions now made by the learned counsel for the petitioners as against the impugned order passed by the fifth respondent dated 13.07.2014, can very well be agitated before the appellate authority and without exhausting such appeal remedy, the petitioner since has approached this Court, challenging the order passed by the fifth respondent, this Court feels that, the point raised by the learned Government Counsel appearing for the official respondents is to be accepted.

8. But at the same time, the apprehension expressed by the learned counsel for the petitioners is that, if an appeal is filed before the appellate authority, there would be no fair hearing as no personal hearing would be given to the petitioners to put forth their case by producing additional documents in support of their claim for getting patta for the land in question.

9. I have considered the said apprehension expressed on behalf of the petitioners by the learned counsel for the petitioners. A hierarchy of appeal remedies have been provided under the Act only in order to verify the Revenue Records in respect of any land which is in dispute and the Revenue Authorities would be in a position to verify those records and take prompt and correct decision of any issue pertaining to the land to be raised by the affected party and therefore, without exhausting such statutory remedies if the parties are allowed to come to this Court directly by way of a writ petition under Article 226 of the Constitution of India, in each and every case this Court cannot go into the factual matrix of the land dispute



with voluminous documents, as that kind of factual issues which are in controversy between the parties cannot be resolved in every case by this Court while exercising jurisdiction under Article 226 of the Constitution of India.

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10. In that view of the matter, Courts have taken the consistent view that, when there is an effective alternative statutory appeal remedy is available, the parties must be driven to exhaust the same first and then, only for legal issues, further litigation by way of a writ petition can be entertained.

11. By pressing into service the said principle, which has been consistently held by this Court as well as the Honourable Supreme Court in number of decisions and by taking into account the submissions of the learned counsel for the petitioners, this Court is inclined to dispose of this writ petition with the following order.

- That the impugned order passed by the fifth respondent is an appealable order before the District Revenue Officer. Such appeal can very well be filed by the petitioners. Therefore, the validity or otherwise of the present impugned order cannot be gone into by this Court.
- Accordingly, liberty is given to the petitioners to approach the appellate authority against the impugned order of the fifth respondent dated 13.07.2014 and if the petitioners are willing to file such an appeal, they can do so within two weeks from the date of receipt of a copy of this order with all relevant documents.
- Once such appeal is filed, the same shall be entertained by the appellate authority ie., the District Revenue Officer concerned and in consideration of the said appeal, the appellate authority shall give fair opportunity of being heard to the petitioners and after hearing the petitioners, by verifying the records available with the Revenue Department as well as the additional documents and inputs to be supplied on behalf of the petitioners in support of their claim, the appellate authority shall decide the issue and pass necessary orders on such appeal within a period of three months from the date of receipt of such appeal.



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- It is made clear that, during the hearing if at all the petitioners seek legal assistance, their counsel can also be permitted to appear and put forth their case on behalf of the petitioners.

12. In view of the aforesaid liberty granted to the petitioners to approach the appellate authority, this writ petition is dismissed with the above observations and directions. However, there shall be no order as to the costs. Consequently, connected miscellaneous petition is also dismissed.

s/d-
Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

KST

To

1. The Principal Secretary &
Commissioner of Land Administration,
Chepauk, Chennai - 600 005.
2. The Settlement Officer,
O/o. The Settlement Officer,
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5. The Revenue Divisional Officer,
Tiruppur District.
6. The Tahsildar,
Palladam, Tiruppur District.

Copy to
The District Revenue Officer
Tiruppur District



+1 CC to Mr.B.R. Prabhu, Advocate sr 29242.

+1 CC to The Government Pleader sr 29566.

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PMK(CO)
SP(15/07/2021)