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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 18424 of 2018

B.Rajendira Raja

...Petitioner

-vs-

1. The Collector,
Thiruvallur District.

2. The Revenue Divisional Officer,
Thiruvallur District.

3. R.Gowri

4. G.Geetha

5. V.Edwin Paul

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents 1 and 2 to cancel the Patta bearing No.3490, 3491, 7123 and 7124 which was issued in favour of 3rd, 4th and 5th respondents herein relying on the false and fabricated documents in violation of the provisions of Revenue Standing Orders in respect of the property ad-measuring to an extent of 1.00 acre comprised in Survey No.508/5B, 508/5C, 508/5D and 508/5E situated at Morai Village, Avadi Taluk, Thiruvallur District based on the petitioner's representation dated 09.11.2017 and pass orders.

For Petitioner : No appearance

For Respondents : Mr.Richardson Wilson

Counsel for Govt. for R1 & R2

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents 1 and 2 to cancel the Patta bearing Nos.3490, 3491, 7123 and 7124 which was issued in favour of 3rd, 4th and 5th respondents herein relying on the false and



fabricated documents in violation of the provisions of Revenue Standing Orders in respect of the property ad-measuring to an extent of 1.00 acre comprised in Survey Nos.508/5B, 508/5C, 508/5D and 508/5E situated at Morai Village, Avadi Taluk, Thiruvallur District based on the petitioner's representation dated 09.11.2017 and pass orders.

2. It is the claim of the petitioner that, the petitioner has right over the property at S.Nos.508/5B, 508/5C, 508/5D and 508/5E at Morai Village, Avadi Taluk, Thiruvallur District.

3. In respect of the said land, it seems that, Patta had been issued in favour of the private respondents, i.e., R3 to R5, on the strength that, they claimed to have purchased the property from the owners, which according to the private respondents are different persons, not the petitioner.

4. Be that as it may, pursuant to the said claim made by the private respondents, it seems that, the Tahsildar concerned has issued Patta in Patta bearing Nos.7123, 7124, 3490 and 3491 in respect of the said land to and in favour of the private respondents, i.e., R3 to R5. Felt aggrieved over the same, the petitioner preferred an appeal / representation to the second respondent, i.e., Revenue Divisional Officer, Thiruvallur on 09.11.2017 and the said appeal / representation since has not been considered according to the petitioner, he has approached this Court, by filing the present Writ Petition with the aforesaid prayer.

5. When the case is taken up for final hearing, there is no representation for the petitioner, but in the averments made in the affidavit as well as in the representation referred to above, the petitioner has claimed that, with regard to the ownership of the land in question, there had been a number of litigations filed by way of Writ Petitions before this Court in the year 2011, as against which, he made an Intra Court Appeal filed in W.A. Nos. 66 of 2014 etc., batch and those cases according to the petitioner, are pending before this Court. During the pendency of the said cases, wrongly Patta had been issued by the Tahsildar concerned to and in favour of the private respondents. Therefore, such issuance of Patta in favour of the private respondents is against law. According to the petitioner, he preferred the said appeal to the second respondent / Revenue Divisional Officer to set aside the said order passed by the Tahsildar.



6. However, Mr. Richardson Wilson, learned counsel for the Government appearing for the official respondents would submit that, if at all, it is a Ryotwari Patta, the Patta issued by the Tahsildar might be the Patta issued in his capacity as the Settlement Officer. Therefore, the appeal shall lie before District Court if it is an Ryotwari Patta and it would lie before the Revenue Divisional Officer if it is a regular Patta issued by the Tahsildar concerned under the provisions of the Tamil Nadu Patta Passbook Act, 1983. In this context, whether the second respondent is the Appellate Authority to decide the issue raised by the petitioner as against the Patta issued in this regard or not also is a question to be decided. Therefore, if at all, the second respondent is the Appellate Authority, he has no hesitation to consider the said appeal dated 09.11.2017 on merits, otherwise, if the second respondent does not have jurisdiction in view of the fact that Ryotwari Patta is within the jurisdiction of the District Court, on that ground, the appeal filed by the petitioner can be disposed of. At any rate, the learned counsel for the Government would submit that, a quietus would be given by disposing the said appeal within a time frame, on merits.

7. I have heard Mr. Richardson Wilson, learned counsel for the Government appearing for the official respondents and since there is no representation for the private respondents and by taking into account of the aforesaid factual matrix, this Court is inclined to dispose of this Writ Petition with the following orders:

"(i) That the second respondent is hereby directed to consider the appeal / representation of the petitioner dated 09.11.2017, a copy of which shall be sent by the petitioner to the second respondent, by way of registered post and on receipt of the same, the second respondent shall decide the same on merits and in accordance with law.

(ii) While deciding the same, it is open to the second respondent to decide the jurisdiction of his office to decide the said appeal in view of the doubt raised in this regard, as to whether the Patta in question is a Ryotwari Patta issued by the Settlement Officer or the regular Patta issued by the regular Tahsildar.

(iii) If it is the case of the second respondent that it is a Ryotwari Patta and that, he does not have any jurisdiction, no notice need to be given to either parties and he shall decide the same and communicate the



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order to the parties concerned, otherwise if it is regular appeal under the provisions of the Tamil Nadu Patta Passbook Act, 1983, the appeal shall be decided on merits after hearing the petitioner as well as the private respondents. At any rate, the needful as indicated above shall be undertaken by the second respondent within a period of twelve weeks from the date of receipt of a copy of this order."

8. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

vji
To

1. The Collector,
Thiruvallur District.
2. The Revenue Divisional Officer,
Thiruvallur District.

+1 CC to The Government Pleader, Sr 28438.

W.P. No. 18424 of 2018

PCH(CO)
LS(20/07/2021)