



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 18393 of 2014 and
W.M.P. No. 1 of 2014

K.A.Dhanapal

...Petitioner

-vs-

1. The Collector,
Kancheepuram,
Kancheepuram District.
2. The Tahsildar,
Tiruvallur Taluk Office,
Tiruvallur.
3. Ponnammal

...Respondents

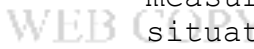
PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the second respondent's in his order dated 12.03.2013 in issuing Patta No.695 in favour of the third respondent in respect of land comprised in S.No.798/1A1 measuring five ares and 798/1A3A measuring four ares situated at Pollivakkam Village, Tiruvallur Taluk, Tiruvallur District and quash the same.

For Petitioner : Mr.N.Nagu Sah

For Respondents : Ms.Akila Rajendran
Counsel for Govt. for R1 & R2
Mr.V.R.Appaswamee for R3

O R D E R

The prayer sought for herein is for a Writ of Certiorari calling for the records of the second respondent in his order dated 12.03.2013 in issuing Patta No.695 in favour of the third respondent in respect of land comprised in S.No.798/1A1 measuring five ares and in 798/1A3A measuring four ares situated



2. The petitioner claims ownership of land at S.No.798/1A1 measuring five ares and S.No.798/1A3A measuring four ares situated at Pollivakkam Village, Tiruvallur Taluk, Tiruvallur District

4. Heard Mr.Nagu Sah, learned counsel appearing for the petitioner, who would submit that, the third respondent does not have any right to claim patta over the property in question. Therefore, the patta issued in Patta No.695 by the second respondent is a wrong issuance and moreover, before issuance of the patta, the second respondent had not issued notice to the petitioner. Therefore, on that ground also, the said patta issued by the second respondent / Tahsildar to and in favour of the third respondent shall be cancelled.

6. I have heard Ms.Akila Rajendran, learned counsel for the Government appearing for the official respondents, who would submit that, if at all, patta is issued under the provisions of the Tamil Nadu Patta Passbook Act, 1983, by the Tahsildar concerned, especially under Sections 3, 5 and 10 of the said Act, as against the said patta issued by the Tahsildar, aggrieved party can prefer an appeal under Section 12 of the said act to the Revenue Divisional Officer concerned. The learned counsel for the Government would also submit that, as against the impugned patta, if the petitioner is aggrieved, he can very well prefer an appeal to the Revenue Divisional Officer concerned and if any such appeal is filed, that would be considered by the Revenue Divisional Officer, after hearing both the petitioner as well as the third respondent and would decide the same on merits.

<https://hcservices.ecourts.gov.in/hcservices/>



materials placed before this Court.

8. Whether the petitioner claims or the third respondent claims to have a right over the property in question either to sustain the impugned patta dated 12.03.2013 or to cancel the same, that has to be gone into only by the appellate authority, i.e., Revenue Divisional Officer, as that procedure is contemplated under the various provisions of the Tamil Nadu Patta Passbook Act, especially under Section 12, where an appeal would lie before the Revenue Divisional Officer, though the patta has been issued by the Tahsildar.

9. Admittedly, no such appeal had been filed by the petitioner as against the patta issued by the Tahsildar dated 12.03.2013, since the petitioner has approached this Court by invoking Article 226 of the Constitution of India, in view of the settled proposition in this regard, this Court feels that, the petitioner can be relegated to prefer an appeal under Section 12 of the Tamil Nadu Patta Passbook Act to the Revenue Divisional Officer concerned as against the impugned patta issued in favour of the third respondent by the second respondent. If such appeal is filed within a time frame that may be stipulated by this Court, the same could be considered and decided by giving an opportunity of being heard to both sides.

10. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following orders:

"(i) That the petitioner is permitted to prefer an appeal against the impugned patta dated 12.03.2013 in Patta No.695 issued in favour of the third respondent, before the Revenue Divisional Officer, Tiruvallur within a period of four weeks from the date of receipt of a copy of this order.

(ii) On receipt of such appeal from the petitioner, the Revenue Divisional Officer concerned shall decide the same on merits and in accordance with law after providing an opportunity of being heard to both the petitioner as well as the third respondent by issuing separate notices to them and pass final orders within a period of eight weeks thereon.

(iii) The Registry is directed to mark a copy of this order to the Revenue Divisional Officer, Tiruvallur, as he is not the party in this Writ Petition."



11. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vji

To

1. The Collector,
Kancheepuram,
Kancheepuram District.
2. The Tahsildar,
Tiruvallur Taluk Office,
Tiruvallur.
3. The Revenue Divisional Officer,
Tiruvallur.

+1cc to Mr.N.Nagusah, Advocate, S.R.No.34475
+1cc to the Government Pleader, S.R.No.34970

W.P. No. 18393 of 2014
and
W.M.P. No. 1 of 2014

EV(CO)
RGA(26/08/2021)