



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 17.04.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.34066 of 2018
and W.M.P.No.5747 of 2019

S.Ranganayaki

... Petitioner

Vs

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Revenue Divisional Officer (R.D.O.)
Cheyyar Revenue Division,
Cheyyar, Tiruvannamalai District.

3.The Tahsildar,
Cheyyar Taluk, Cheyyar,
Tiruvannamalai District.

4.C.Pazhani

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus to direct the 2nd respondent to consider the petitioner representation dated 22.10.2018 within stipulated period and consequently direct the third respondent to issue a Patta document in favour of the petitioner.

For Petitioner : Mr.T.V.G.Kartheeban

For Respondents 1 to 3 : Mr.J.Pothiraj
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of mandamus directing the second respondent to consider the representation of the petitioner dated 22.10.2018 within a stipulated period and consequently direct the third respondent to issue patta document in favour of the petitioner.

2.The case of the petitioner is that, the land to the



extent of 0.68 acres at S.No.254 in Sengampoondi Village, Velleripet Madura was purchased by the petitioner's mother by sale deed dated 14.10.1956 and after the demise of the petitioner's mother, according to the petitioner, she inherited the property and had been in possession and enjoyment of the same.

3.When that being so, according to the petitioner, while issuing the joint patta in Patta No.126, the land in question belongs to the petitioner also included in the said patta and accordingly, patta was issued in favour of the fourth respondent, which, according to the petitioner, he has obtained by fraud or misrepresentation and in order to cancel the same, he has given the representation to the respondents, especially the first and second respondents on 22.10.2018 and the said representation since has not been considered so far, he has filed the present writ petition with the aforesaid prayer.

4.The learned counsel appearing for the petitioner, having reiterated the aforesaid facts, would seek indulgence of this Court to issue a suitable direction to the respondents especially the third respondent to consider the representation of the petitioner and pass orders thereon on merits and in accordance with law, of course after giving an opportunity of being heard to both parties.

5.Heard Mr.J.Pothiraj, learned Special Government Pleader appearing for the official respondents, who would submit that, ultimately if any order was passed relating to issuance of patta by the Tahsildar concerned and by virtue of such order of issuance of patta, if anybody is aggrieved, he or she has to prefer an appeal only to the Revenue Divisional Officer, who is the Appellate Authority under the provisions of the Patta Passbook Act, therefore, as against the order passed by the Tahsildar giving joint patta or otherwise to and in favour of the fourth respondent, because of which the petitioner is affected, she has to prefer appeal to the second respondent. Hence, without going for an appeal, she cannot make a request to the third respondent once again to reconsider the issue.

6.I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

7.No doubt, if any order is passed under the provisions of the Patta Passbook Act by the Tahsildar concerned, as against that order, the aggrieved party should prefer appeal only to the Revenue Divisional Officer concerned. However, in the case in hand, it is the definite case of the petitioner that, joint patta i.e. Patta No.126 was issued in favour of the fourth



respondent including the land belongs to the petitioner without giving any opportunity to the petitioner and without any knowledge of the petitioner, since the said patta has been issued, it cannot be treated that it was an order or decision taken by the Tahsildar concerned in issuance of patta in favour of the fourth respondent on merits. When that being so, the question of filing any appeal to the Appellate Authority does not arise, therefore, the petitioner can very well agitate the issue before the Tahsildar concerned and the Tahsildar, on considering the request of the petitioner and after hearing both the petitioner as well as the fourth respondent, accordingly can rectify the mistake, if he satisfied that the mistake has occurred in issuance of joint patta in Patta No.126 in the name of the fourth respondent. Therefore, the respondents, especially the third respondent can very well consider the representation of the petitioner dated 22.10.2018 and after giving an opportunity of being heard to both the petitioner as well as the fourth respondent, a decision can be taken on merits and once such decision is taken by the Tahsildar, pursuant to the direction issued herein, on consideration of the petitioner's representation dated 22.10.2018, thereafter such order if it is aggrieved, such aggrieved party can prefer an appeal under the provisions of the Patta Passbook Act to the Revenue Divisional Officer being the Appellate Authority.

8. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders.

That there shall be a direction to the third respondent Tahsildar to consider the representation of the petitioner dated 22.10.2018 and pass orders thereon on merits and in accordance with law of course after giving a reasonable opportunity of being heard to both the petitioner as well as the fourth respondent by giving separate notices to them and final order shall be passed within a period of twelve weeks from the date of receipt of a copy of this order.

9. With this direction, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Sgl



To

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Revenue Divisional Officer (R.D.O.)
Cheyyar Revenue Division,
Cheyyar, Tiruvannamalai District.

3.The Tahsildar,
Cheyyar Taluk, Cheyyar,
Tiruvannamalai District.

+1cc to Mr. T.V.G.Kartheeban, Advocate, S.R.No.23275

+1cc to the Government Pleader, S.R.No.23657

W.P.No.34066 of 2018

PMK(CO)
RVM(26/07/2021)