BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM:
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.720 of 2016
and
C.M.P(MD)No.4582 of 2016

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

4.The Tahsildar,
Kamuthi Taluk,
Kamuthi,
Ramanathapuram District. ... Appellants/Respondents

Vs.

Raja N.Kumaran Sethupathy,
Represented by his Power Agent,
Mr.Mangalanadha Durai,
No.7/3, Vanasankari Amman Koil Street,
Ramanathapuram & District. ... Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 16.12.2014 passed in W.P(MD)No.10923 of 2012.

Prayer in WP(MD). 10923/ 2012 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, call for the records from the 3rd respondent in her proceedings in Na.Ka.No.A4/4461/2012, dated 11.06.2012 and quash the same.

For Appellants : Mr.P.Mahendran,
Additional Government Pleader

For Respondent : Mr.V.Janakiramulu

JUDGMENT

(Judgment of the Court was delivered by PUSHPA SATHYANARAYANA,J.)

The writ appeal is directed against the order dated 16.12.2014 passed in W.P(MD)No.10923 of 2012.

2. The respondent herein had preferred a writ petition challenging the proceedings in Na.Ka.No.A4/4461/2012 dated 11.06.2012 issued by the third appellant herein.

3. The entire dispute revolves around an extent of 80 cents of land in Survey No.606/328 in Kamuthi Village. The writ petitioner is Raja N.Kumaran Sethupathy, who belongs to the family of King of Ramanathapuram Samasthanam. It is stated that an extent of approximately 50 cents was permitted to be in possession of the Tahsildhar's office during the Zamindari Abolition Act proceedings. After the new office was constructed, the Taluk office was shifted from there. Since the respondent had applied for patta in his name, the Tahsildhar had issued the patta. Though it is stated that the Tahsildhar does not have the power to issue such patta and only the District Revenue Officer had the right to do so, after the patta was transferred in the name of the writ petitioner, it was found by the District Collector, Ramnad that the writ petitioner was not entitled for a patta for various reasons. Hence, an order was passed to cancel the patta granted in the name of the writ petitioner. Accordingly, the Revenue Divisional Officer, Ramanathapuram District, had passed an order in proceedings in Na.Ka.A4/4461/2012 dated 11.06.2012 and cancelled the patta issued in the name of the writ petitioner. However, the said order was passed without any notice to the writ petitioner.

4. Aggrieved by the said order, the writ petition was filed on the two grounds, namely, no notice was issued to the writ petitioner before passing any order, which is in violation of the principles of natural justice; and secondly, the third appellant did not have any powers to pass an order cancelling the patta under Section 12 of the Patta Passbook Act, 1983 and the third appellant has passed the order as per the direction of the District Collector.

5. The two grounds raised by the writ petitioner were accepted by the learned Single Judge and the order passed by the Revenue Divisional Officer was set aside. However, the learned Single Judge did not remit the matter to the authority, who has got jurisdiction to enquire into the matter. Therefore, the Government has preferred the above writ appeal.

6. When it is admitted that the Revenue Divisional Officer did not have jurisdiction to try the matter in cancelling patta and only the District Revenue Officer is the authority, the learned Single Judge ought to have remitted the matter to the District Revenue Officer for fresh consideration.

7. In the light of the above facts, we are of the opinion that the order of the learned Single Judge setting aside the order of the third respondent/third appellant to be confirmed and the matter be remitted to the second appellant District Revenue Officer, Ramanathapuram District, for fresh consideration.

8. In the light of the above, this writ appeal is disposed of and the order of the learned Single Judge, dated 16.12.2014 passed in W.P(MD)No.10923 of 2012, is confirmed and the matter is remitted back to the second appellant District Revenue Officer, Ramanathapuram District, for fresh consideration after issuing appropriate notice to the writ petitioner or any other person concerned in this regard and affording them an opportunity of personal hearing and decide the matter on the merits of the case. It is made clear that this Court is not expressing any opinion on the merits of the case. It is open to the writ petitioner also to produce documentary evidence in this regard to substantiate his claim. The above exercise shall be carried out within a period of six months from the date of receipt of a copy of this judgement. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The District Collector,
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Ramanathapuram.

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Ramanathapuram,
Ramanathapuram District.

3.The Revenue Divisional Officer,
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+1 CC to SPL GP (SR-6209[F] dated 19/02/2021)

W.A(MD)No.720 of 2016
18.02.2021

KM (11.03.2021) 4P 6C