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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.03.2022

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4529 of 2022
and
W.M.P.No.4658, 4659 & 4661 of 2022

1. S. Subbarayan
2. K. Senthil Kumar
3. R. Mohanraj … Petitioners

Vs

1. The District Collector,
   Salem District,
   Salem.

2. The Additional Chief Secretary
   and Commissioner of Land Administration,
   Chepauk, Chennai-600 005. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the entire records pertaining to the order passed in Joint Appeal in proceedings in Na.Ka.No.F2/17863/2018 dated 27.02.2019 on the file of the Additional Chief Secretary and Commissioner of Land Administration, Chepauk, Chennai-600 005 confirming the order of the 1st respondent in his Proceedings in Na.Ka.No.40297/2012/K4, dated 05.11.2013 and quash the same and consequently, directing the respondents to issue fresh patta in favour of the petitioners herein.

For Petitioners ... Mr. T.N.Rajagopalan

For Respondents... Mr. T. Chezhiyan,
Additional Government Pleader

O R D E R

The present petition has been filed seeking the relief of quashment of the impugned order of the 2nd respondent confirming the order of the 1st respondent.

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2. It is the case of the petitioners that the petitioners were in occupation of odai poromboke land and they were granted patta based on G.O.Ms.No.580, Revenue (F1) Department dated 23.06.1995 and assignment orders were also passed. Thereafter, the assignment made in favour of the petitioners was canceled by the 1st respondent by way of an impugned order dated 24.09.2004 and the said impugned order was set aside by this Court vide order dated 28.08.2012 in W.P.No.3769 of 2008. Pursuant to the said order, the petitioners appeared before the 1st respondent for hearing, however, the 1st respondent has reiterated the earlier order dated 24.09.2004 placing reliance upon certain reports dated 24.10.2013 and 31.10.2013 of the DRO and RDO respectively. Against the said order, a joint appeal was made before the 2nd respondent, however, the same was dismissed, which prompted the petitioners to file the present petition seeking the relief of quashment of the same.

3. Learned counsel for the petitioners submits that pursuant to the order passed in W.P.No.25790 of 2014, the petitioner filed an appeal before the 2nd respondent, however, the said appeal was dismissed by the impugned order which resulted in filing of the present petition seeking to quash the said impugned order.

4. Learned Additional Government Pleader appearing for the respondents submits that though the notice was sent to the petitioner on 07.09.2018, however, no one appeared on the date of hearing. Hence, the present impugned order was passed.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel on the either side and perused the materials available on record.

6. Even a bare perusal of the order impugned herein would reveal the total non-application of mind on the part of the 1st respondent. This Court even by its order in W.P.No.3769 of 2008 had directed the 1st respondent to consider the matter afresh and pass orders after affording an opportunity of hearing to all the aggrieved persons. However, the 1st respondent, after merely issuing a notice to the petitioner, in their absence has passed the order impugned, which is a mere reiteration of the earlier order passed by the 1st respondent. Except for the issuance of notice to the petitioner, the learned Government Advocate is not able to lay his hands on any materials to show that an effective hearing was granted to the petitioners. The 1st respondent is expected to afford an opportunity of hearing which

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is effective in nature, before passing the order. It is not a matter of formality to issue a notice and pass very same order. Hence the impugned order in this petition is set aside and the matter is remanded to the 1st respondent for fresh and effective consideration and if any document is relied upon by the Revenue Officials, the copy of the same may be served on the petitioner before hearing so as to enable the petitioners to put forth their case and the said exercise shall be completed as expeditiously as possible (i.e.,) before Six Months.

7.Accordingly, this Writ Petition is allowed with the above directions. No costs. Consequently, the connected Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

NHS
To

1. The District Collector,
   Salem District,
   Salem.

2. The Additional Chief Secretary
   and Commissioner of Land Administration,
   Chepauk, Chennai-600 005.

+1cc to the Government Pleader Sr.16714

W.P.No.4529 of 2022

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