

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.6637 of 2015

and

M.P.No.1 of 2015

Karmegam

...Petitioner

.Vs.

1. The Revenue Divisional Officer,
Madhuranthakam,
Kancheepuram District.

2. The Tahsildar,
Madhuranthakam Taluk,
Madhuranthakam,
Kancheepuram District.

3. M.Srinivasan @ Seenivasappan.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in Na.Ka.No.2521 of 2014 C dated 10.02.2015 passed by the 1st respondent herein and quash the same.

For Petitioner : Mr.S.Gowrishankar,
for Mr.G.Jeremiah

For Respondents : Mr.U.Bharanidaran,
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the notice dated 10.02.2015 issued by the first respondent directing the petitioner to attend for enquiry based on an application submitted by the third respondent seeking for cancellation of Patta granted in favour of the father of the petitioner with respect to the subject property.

2.The main ground that has been raised by the petitioner is that the first respondent is an appellate authority under Section 12 of "the Tamil Nadu Patta Passbook Act, 1983"

[hereinafter called as "Act"] and he cannot directly entertain the application submitted by third respondent seeking for cancellation of Patta and if at all third respondent seeks for the modification of entries made in Patta passbook, the same can be done only by submitting an application before the Tahsildar, who is vested with powers under Section 10 of the Act, to pass appropriate orders. The other ground that has been raised by the petitioner is that there are at least three suits pending between the parties and the third respondent without contesting civil suits was attempting to get the Patta cancelled by approaching the authority who lacks jurisdiction.

3.Heard Mr.S.Gowrishankar, learned counsel for the petitioner and Mr.U.Bharanidaran, learned Additional Government Pleader for the respondents 1 and 2.

4.In the considered view of this Court, Section 10 of the Act gives specific powers to the Tahsildar to modify the entries made in the Patta passbook already issued under Section 3 of the Act. Before the modification is carried out, the said provision contemplates opportunity being given to both the parties. Only upon the order passed by the Tahsildar, the person aggrieved, can approach Revenue Divisional Officer by filing appeal under Section 12 of the Act. In view of the hierarchy that is contemplated under the Act, it will not be appropriate for the appellate authority to directly entertain an application for modification in Patta passbook. If such an application is entertained and orders are passed, the aggrieved person will be certainly deprived an appellate remedy. That apart, the Revenue Divisional Officer has not been vested with powers of original jurisdiction to modify the entries made in the Patta passbook.

5.In view of the above, the impugned notice issued by the first respondent stands vitiated due to lack of jurisdiction and the same is liable to be interfered by this Court.

6.This Court does not want to go into the civil litigation that are pending between the parties. If the third respondent is aggrieved by the fact that the Patta is standing in the name of father of the petitioner and he seeks for modification of the entries made in the Patta passbook, it is for the third respondent to approach the second respondent viz., the Tahsildar and submit appropriate application. In such an event, the Tahsildar will issue notice to the interested parties and hear them and thereafter, pass orders strictly in accordance with law. It goes without saying that the Tahsildar will take into consideration the pendency of the civil suits between the parties.

7.In the result, impugned notice dated 10.02.2015 issued by

the first respondent stands quashed and accordingly, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nsa

To

1. The Revenue Divisional Officer,
Madhuranthakam,
Kancheepuram District.
2. The Tahsildar,
Madhuranthakam Taluk,
Madhuranthakam,
Kancheepuram District.

+1cc to the State Government Pleader, High Court,
Chennai, S.R.No.38987

W.P.No.6637 of 2015
and
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SJ(CO)
RGA(14/07/2022)