



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.A.No.1362 of 2022

1. R.Somasundaram
2. R.Mohanraj
3. R.Nedunchezhiyan .. Appellants

Vs.

1. The State of Tamil Nadu
rep. by its Principal Secretary to Government
Revenue and Disasters' Management Department
Secretariat
Chennai 600 009.

2. The Commissioner of Land Administration
Ezhilagam
Chepauk
Chennai 600 005.

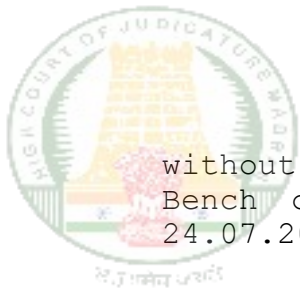
3. The Commissioner of Survey and Settlement
Survey House
Chepauk
Chennai 600 005.

4. The District Collector
Thiruvallur District
Thiruvallur.

5. The Tahsildhar
Ambattur Taluk
Chennai 600 078. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 23.03.2022 made in W.P.No.15862 of 2021.

Prayer in W.P.No.15862 of 2021: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, Declaring that the proceedings initiated in pursuant to impugned notice dated 09.07.2021 in Ref.No.K1/1259132/2021 issued by the 2nd Respondent is illegal



without jurisdiction and against judgment passed by the Full Bench of this Hon'ble Court in W.A. No.326 of 2007 dated 24.07.2007 (2000 (4) CTC 538).

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For the Appellants : Mr.M.R.Jothimanian

For the Respondents : Mr.P.Muthukumar
State Government Pleader
Assisted by
Mr.K.M.D.Muhilan
Government Advocate

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The writ appeal has been filed against the order dated 23.03.2022, by which, the writ petition preferred by the appellants was dismissed.

2. The writ petition was filed to challenge the hearing notice/show cause notice issued by the Commissioner of Land Administration, who is designated as the Board of Revenue. The challenge to the show cause notice was not accepted by the learned Single Judge finding no infirmity in exercise of the power by the Commissioner of Land Administration.

3. Learned counsel for the appellants submits that the show cause notice issued by the Commissioner of Land Administration is without authority of law because the order of Settlement Commissioner was earlier reviewed by the Director and second review is not permissible even under Tamil Nadu Estate (Abolition and Conversion of Ryotwari) Act, 1948. In view of the above, learned Single Judge ought to have quashed the show cause notice for want of competence of the Commissioner of Land Administration.

4. We have considered the submissions and find that the show cause notice has been issued under Section 7(d) of the Act of 1948. It was after the order of Commissioner of Survey and Settlement passed under Section 5(2) of the Act of 1948. Therefore, Sections 5 and 7 are quoted under, for ready reference:

"Section 5:

(1) As soon as may be after the passing of this Act, the Government shall appoint one or more Settlement Officers to carry out the functions and duties assigned to them under this Act.



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(2) Every Settlement Officer shall be subordinate to the Director and shall be guided by such lawful instructions as he may issue from time to time; and the Director shall also have power to cancel or revise any of the orders, acts or proceedings of the Settlement Officer, other than those in respect of which an appeal lies to the Tribunal."

"Section 7: The Board of Revenue shall have power -

(a) to give effect to the provisions of this Act and in particular to superintend the taking over of estates and to make due arrangements for the interim administration thereof;

(b) to issue instruction for the guidance of the Director, District Collectors, Settlement Officers and managers of estates;

(c) to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies to the Tribunal or of any manager; and

(d) to cancel or revise any of the orders, acts or proceedings of the Director or of any District Collector, including those passed, done or taken in the exercise of revisional powers."

5. Under Section 5(2) quoted above, the Settlement Officer is subordinate to the Director and the power to cancel or revise any of the orders, acts or proceedings of the Settlement Officer, other than those in respect of which an appeal lies to the Tribunal, is given to the Director.

6. Section 7(d) gives power to the Board of Revenue to cancel or revise any of the orders, acts or proceedings of the Director or of any District Collector and therefore, the power given to the Board of Revenue is to review the order of the Director. Therefore, it cannot be considered to be a case of second show cause notice issued by the same officer, rather the show cause notice was issued by the Commissioner of Land Administration under Section 7(d). Therefore, the argument of learned counsel for the appellants that the show cause notice is without authority of law, cannot be accepted.

7. Finding that the challenge was only to the show cause notice, the learned Single Judge, without interfering with the same, gave liberty to the writ appellants to respond to it and



contest the same. We find no error in the order under challenge and therefore, the writ appeal is dismissed. There will be no order as to costs. Consequently, CMP No.8719 of 2022 is also dismissed.

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Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Principal Secretary to Government
Revenue and Disasters' Management Department
Secretariat, Chennai 600 009.
2. The Commissioner of Land Administration
Ezhilagam, Chepauk, Chennai 600 005.
3. The Commissioner of Survey and Settlement
Survey House, Chepauk, Chennai 600 005.
4. The District Collector
Thiruvallur District, Thiruvallur.
5. The Tahsildhar
Ambattur Taluk, Chennai 600 078.

+1cc to Mr.K.Balu, Advocate, S.R.No.40872
+1cc to the Government Pleader, S.R.No.40957

W.A.No.1362 of 2022

SKM(CO)
SB(07/07/2022)