IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.233 of 2017
and
W.M.P.No.249 of 2017

1.K.Suresh
2.S.Niranjana ...Petitioners

Vs.

1.The District Revenue Officer,
Office of the Collectorate,
Kancheepuram.

2.The Revenue Divisional Officer,
Tambaram, Chennai – 600 045.

3.The Tahsildar,
Tambaram, Chennai – 600 045.

4.Thiru.S.Padhuvai.S.Natarajan ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the record connected with the proceedings issued in Pa.Mu.2362/2016/A dated 30.11.2016 passed by the 2nd respondent and quash the same and consequently direct the respondents to restore an carry out the Patta issued in favour of the petitioners issued in Patta No.395 and 396 in Village Patta Register which still vacant in the Patta Register.

For Petitioners : Mr.Ilamvaludhi

For Respondents : Mr.U.Banaridaran
Additional Government Pleader for R1 to R3.
: Mr.Dr.R.Sampath Kumar for R4.

O R D E R

The writ petition has been filed to quash the proceedings dated 30.11.2016 passed by the 2nd respondent and consequently, direct the respondents to restore an carry out the Patta issued in favour of the petitioners issued in Patta No.395 and 396 in Village Patta Register which still vacant in the Patta Register.

2. It is the case of the petitioner that the petitioner's father purchased the property in S.No.442 situated at at Madampakkam Village of Paduvancheri. and he was in possession of the said land and he has settled the above said property to the petitioner and subsequently, the petitioner have settled a portion of the property to his wife, who is the second petitioner herein and the said settlement deed was also registered in the office of the Sub-Registrar, Tambaram on 24.12.2009. Though the property was in possession of the petitioner and his wife, patta was not issued in their favour. Therefore, the petitioners had made several representation to the Tahsildar, Tambaram. The Tahsildar, vide his proceedings dated nil.04.2015 referred the matter to the Revenue Inspector of Madambakkam. There is no progress, pursuance to the petitioner's representation dated 09.01.2015, the matter has been transferred to the Special Tahsildar, Natham Settlement Scheme,

Tambara, The Special Tahsilar, after enquiry, issued a patta on 12.07.2011 in favour of the petitioners and the patta name also mentioned as S.Nos.395 and 396, which was classified as Manai Vari Patta. However, the same has not entered in the revenue records. Therefore, the petitioners have made a representation on 30.03.2016 to the third respondent to mutate the revenue records and there is no response for the same and hence, the petitioners have filed a writ petition before this Court in W.P.No.9255 of 2016. This Court, vide its order dated 11.03.2016 disposed of the writ petition with a direction *to the petitioners to give a fresh representation to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the 3rd respondent is directed to consider the same and pass appropriate orders, by affording opportunity of personal hearing to the petitioner as well as all other necessary parties, if any, on merits and in accordance with law, within a period of six weeks thereafter.* Even thereafter, there is no response from the respondents and hence, the petitioners have filed a contempt petition in Cont.Pet.No.2046/2016. In the contempt, the Tahsildar has filed his report on 10.10.2016 and 30.11.2016 stating that the Revenue Divisional Officer, Tambaram, vide his order dated 30.11.2016, has already cancelled the patta which was earlier issued in their favour. Challenging the said proceedings dated 30.11.2016, the petitioners have filed the present writ petition before this Court.

3. The learned counsel for the petitioners submitted that the issue arises in the present case is that the Special Tahsildar, Natham Settlement Scheme has already issued patta on 12.07.2011 in respect of the subject property in favour of the petitioners and the same was not entered in the revenue records and on the sole ground, the petitioners have already filed a writ petition before this Court and this court has also issued a direction to the Special Tahsildar to enter the petitioners' name in the revenue records and the same was negatived by the RDO, who is the appellate authority, which is not sustainable one. The learned counsel further submitted that the Revenue Divisional Officer has not discussed about the endorsement made already and prayer in the writ petition in WP.No.9255 of 2016 is to make an entry in the revenue records. Without doing so, cancelling the patta which was already issued in favour of the petitioner is beyond the scope of the RDO. Therefore, the learned counsel prays to set aside the order passed by the second respondent and remand the matter back to the third respondent for fresh consideration.

4. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 submitted that in view of the abolition of the Natham Settlement Scheme, the Special Tahsildar have no jurisdiction to pass orders and the petitioners have also made a representation to the Special Tahsildar as well as the RDO. After abolition of the Natham Settlement Scheme, the Government have given power to make correction/cancel the patta and hence, the second respondent has rightly passed the impugned order and this Court does not warrant any interference with the same.

5. Heard the learned counsel on either side and perused the materials available on records.

6. The facts of the case are not in dispute. Admittedly, the Special Tahsildar, granted patta in favour of the petitioners in respect of the subject properties in Patta Nos.395 and 396, which was classified as "Manai vari patta". It is the grievance of the petitioner that the said patta was not entered in favour of the petitioners in the revenue records, for which, the petitioners have approached this Court. However, based on the objection filed by the 4th respondent, the Revenue Divisional Officer rejected the petitioners' representation, which is not sustainable one.

7. On perusal of the order dated 11.03.2016 in W.P.No.9255 of 2016, it is seen that this Court was directed the Special Tahsildar to consider and pass orders on the petitioner's representation, but the Revenue Divisional Officer usurped the power of the Special Tahsildar and passed the present impugned order which is bad in law. Hence, this Court is inclined to interfere with the impugned order.

8. In view of the above discussion, this Court passes the following orders;

(i) The impugned order passed by the second respondent dated 30.11.2016 is hereby set-aside;

(ii) the second respondent is directed to remand the matter back to the third respondent for fresh consideration within a period of four weeks from the date of receipt of a copy of this order; and

(iii) Upon receipt of the same, the third respondent is directed to consider the same and pass appropriate orders on the petitioners' representation in terms of the order passed by this Court in W.P.No.9255/2016 dated 11.03.2016.

9. With the above directions and observations, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

17.11.2022

Index : Yes / No
Speaking order : Yes / No

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M.DHANDAPANI, J.

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