IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.34492 of 2022
and W.M.P.Nos.33943, 33944 and 33947 of 2022

Sundari .... Petitioner

-Vs-

1.The District Collector
Collectorate, Chennai District
Chennai 600 001.

2.The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Ambattur Division, Anna Nagar,
Chennai 600 040.

3.The Tahsildar
Ambattur Taluk Office
Ambattur, Chennai 600 053.

4.The Executive Engineer
Corporation of Chennai
Zone 7, Zonal Office, Ambattur
Chennai 600 053.

5.Vijayalakshmipuram Thittapaguthi
Kudiyiruppu Manai Yrimaiyalargal Sangam
Reg.No.163/2017, Represented by its
Secretary, R.Rajasekar, S/o Raja Prabal
No.13, Ambedkar Street
Vijayalakshmipuram, Ambattur
Chennai 600 053. .... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent pertaining to the proceedings in Se.Mu.No.A5/4568/2022 dated 07.12.2022 and quash th same and consequently direct the respondents to continue the patta comprised in Survey Nos.168/3E1 and 168/3F1 in the name of the petitioner.

For Petitioner : Mr.Arun Anbumani
for Mr.K.Venkateshwaran

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader – for RR 1 to 3

Ms.K.Aswini Devi,
Standing Counsel – for R4

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records of the second respondent pertaining to the proceedings in Se.Mu.No.A5/4568/2022 dated 07.12.2022 and quash th same and consequently direct the respondents to continue the patta comprised in Survey Nos.168/3E1 and 168/3F1 in the name of the petitioner.

2. It is the claim of the petitioner that the property at Block No.43, S.No.127/2, M.C.Raja Street, Ambattur belongs to the petitioner and patta already been issued in the name of the petitioner. However, the 5th respondent, seems to have given a complaint to the Revenue Divisional Officer to cancel the

patta issued in the name of the petitioner in respect of the said land. Having entertained the said complaint from the 5th respondent, the 2nd respondent issued summons to the petitioner to appear and to defend his case.

3. At that juncture, the petitioner already filed a writ petition in W.P.No.25195 of 2022, where he sought for a direction to change the enquiry officer pertaining to the proceedings in question. While disposing of the said writ petition, a learned judge of this Court, by order dated 19.09.2022 has passed the following order.

> " *6. Considering the limited relief sought for by the petitioner, this Court without going into the merits of this case is inclined to direct the second respondent to conduct enquiry in a fair manner and pass appropriate orders on merits and in accordance with law after providing documents and opportunity of hearing to the petitioner and the said Mr.Prakash within a period of twelve weeks from the date of receipt of a copy of this order."*

4. Subsequently, it is the case of the petitioner that, though the petitioner asked for all documents which are going to be relied upon by the 2nd respondent during the proceedings to be served to the petitioner, however even though such a written request has been made by the petitioner on 12.09.2022, no such

documents have been provided to the petitioner by the 2nd respondent.

5. When that being so, in the meanwhile on 09.09.2022 the petitioner had given a detailed complaint pointing out that there was a lot of encroachments in the locality as well as in the subject land and therefore steps must be taken by the authorities in the revenue department to remove such encroachments.

6. However, according to the learned counsel for the petitioner, though the said complaint given on 09.09.2022 has been taken into account, without the statement or reply given by the petitioner pursuant to the summons issued in this regard during the enquiry and without giving any further opportunity to the petitioner to put forth his case, after perusal of those documents, the 2nd respondent has passed a final order on 07.12.2022 cancelling the patta issued in the name of the petitioner. Therefore, challenging the said order, the present writ petition has been filed.

7. Reiterating the aforesaid facts, Mr.Arun Anbumani learned counsel for the petitioner would further canvass the point that, though the petitioner can prefer a revision against the order impugned before the District Revenue Officer under Section 13 of the Patta Passbook Act, the petitioner cannot file such revision as it is the case of the petitioner that the patta originally was issued to

the predecessor-in-title of the petitioner not under the Patta Passbook Act but under the Inam Settlement Act.

8. Therefore, if any patta is issued by the Settlement Officer as against which the Revenue Divisional Officer, in exercise of the powers provided under Section 12 of the Patta Passbook Act, cannot cancel the patta. Therefore, instead of preferring a revision before the District Revenue Officer, the petitioner has chosen to challenge this order passed by the 2nd respondent before this Court in this writ petition.

9. He would also submit that, in the meanwhile on 20.12.2022 the Tahsildar concerned has sent a communication to the Assistant Commissioner of Police, Ambattur as well as Inspector of Police, Ambattur to provide security to the revenue department officials to remove the petitioner from the subject land pursuant to the order impugned, where the patta issued to the petitioner has been cancelled. Therefore the learned counsel for the petitioner seeks the indulgence of this Court to give interim protection to the petitioner till the disposal of the writ petition.

10. However, Mr.Yogesh Kannadasan learned Special Government Pleader

appearing for the respondents 1 to 3 would submit that, whatever the grounds urged by the petitioner before this Court in this writ petition, challenging the order impugned dated 07.12.2022 by the 2nd respondent is concerned, those grounds can very well be urged before the revisional authority viz., the District Revenue Officer if the petitioner prefers a revision petition within the meaning of Section 13 of the Patta Passbook Act.

11. Since the order impugned has been passed by the 2nd respondent under Section 12 of the Patta Passbook Act, naturally the revisional jurisdiction would be available only with the District Revenue Officer. Without going before the District Revenue Officer by filing a revision, the petitioner ought not to have filed this writ petition and therefore on that ground, this writ petition has to be rejected, learned Special Government Pleader contended.

12. Insofar as the complaint made by the petitioner that even though this Court in the earlier round of litigation has directed to furnish the documents, the same have not been served / provided to the petitioner, that issue also can be agitated by the petitioner before the revisional authority and if that issue is raised, the revisional authority would look into it and if really the documents which are required to be perused by the petitioner have not been provided to the petitioner, that grievance of the petitioner can also be easily redressed by

the revisional authority.

13. I have considered the submissions made by the learned counsel appearing for both sides and have perused the materials placed on record.

14. Though the aforesaid submissions have been made by the learned counsel for the petitioner for not preferring a revision before the District Revenue Officer who is the revisional authority under the Patta Passbook Act, this Court is not impressed with the same, the reason being that, the order impugned dated 07.12.2022 passed by the Revenue Divisional Officer / 2nd respondent is nothing but an order within the meaning of Section 12 of the Patta Passbook Act.

15. Therefore, as against the said order passed by the original authority, revision would lie before District Revenue Officer under Section 13 of the Act. Therefore, whatever the grounds that have been urged before this Court can very well be urged before the revisional authority. Hence, on that ground this writ petition cannot be entertained.

16. But at the same time, it is the complaint of the petitioner that, when a complaint has been given by the 5th respondent challenging the patta given to the petitioner and in order to cancel the same if the enquiry was conducted by the Revenue Divisional Officer being an appellate authority, where summons were issued, pursuant to which when the petitioner sought for certain documents which have been relied upon by the 5th respondent and also the 2nd respondent and a direction to that effect has been given by this Court in the earlier round of litigation, those documents ought to have been provided to the petitioner, without which the enquiry conducted by the 2nd respondent which culminated into the impugned order may not be justified for that reason. However, that ground also can very well be urged by the petitioner before the revisional authority ie., the District Revenue Officer concerned.

17. In the meanwhile, since some coercive steps are being taken by the 3rd respondent and the communication dated 20.12.2022 reflects the same, this Court feels that, while relegating the petitioner to go before the revisional authority, till he files the revision petition, some interim protection can be given. Otherwise, if any coercive steps are taken and if the petitioner's interests are prejudiced, it cannot be compensated. Therefore, till the petitioner files a revision for which he has got time upto 13.02.2023, since she received the

impugned order only on 13.12.2022, this Court feels that the following orders can be passed in this writ petition while disposing the same.

- That the petitioner is relegated to go before the revisional authority ie., the District Revenue Officer is concerned within the meaning of Section 13 of the Patta Passbook Act against the order impugned dated 07.12.2022 on or before 13.02.2023.

- In the revision, it is open to the petitioner to seek for all documents which were relied upon by the 2nd respondent during the enquiry as well as the documents furnished by the complainant before the Revenue Divisional Officer and that kind of list of documents, if it is made along with the revision petition, that shall be first looked into by the District Revenue Officer and those documents, if not already provided to the petitioner, the same shall be provided to the petitioner before taking up the revision petition for hearing.

- Till 13.02.2023, where he can also seek for an interim order to stay the operation of the order impugned before the revisional authority, in view of the coercive steps seems to have been taken against the petitioner as reflected in the communication of the Tahsildar dated 20.12.2022, there shall be a direction to the official respondents herein not to take any coercive steps against the petitioner pursuant to the impugned order till such time.

- It is made clear that insofar as the jurisdiction of the 2nd respondent who entertained the complaint and passed the impugned order also, if it is raised by the petitioner in the revision petition the same can be decided by the revisional authority.

18. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.12.2022

Index : Yes/No
Internet : Yes/No
KST

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R. SURESH KUMAR, J.

KST

W.P.No. 34492 of 2022

22.12.2022