IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29772 of 2017
And
W.M.P.Nos.32121 and 32122 of 2017

1.Krishnan
2.Rathnamma
3.Nagarathna ... Petitioners

Vs.

1.The District Revenue Officer,
Krishnagiri District,
Krishnagiri: 635 001.

2.The Sub Collector,
Hosur.

3.The Tahsildar,
Hosur.

4.Pappanna Alias Venkattappa ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent namely the District Revenue Officer, Krishnagiri in Pa.Mu.No.20199/2012/J-2 dated 28.12.2013 and quash the said order and consequently direct the respondents 1 to 3 to restore the Patta in favour of the father of the petitioners Late.Duraisamy in respect of the lands an extent of 0.18.0 hectares in Survey Number.1297/3B and 0.46.0 hectares in S.No.1297/3C Kamandoddi Village, Hosur Taluk (now Shoolagiri Taluk), Krishnagiri District within a time to be stipulated by this Hon'ble Court.

For Petitioners : Mr.J.Hariharan
for M/s.V.Nicholas
For Respondents : Mr.Yogesh Kannadasan for R1 to R3
Special Government Pleader
M/s.R.Jayaprakash for R4

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent namely the District Revenue Officer, Krishnagiri in Pa.Mu.No.20199/2012/J-2 dated 28.12.2013 and to quash the said order and to consequently direct the respondents 1 to 3 to restore the patta in favour of the father of the petitioners Late.Duraisamy in respect of the lands an extent of 0.18.0 hectares in Survey Number.1297/3B and 0.46.0 hectares in S.No.1297/3C Kamandoddi Village, Hosur Taluk (now Shoolagiri Taluk), Krishnagiri District, within a time to be stipulated by this Court.

2.The case of the petitioners is that the petitioners father was in possession and enjoyment of the subject property for more than 50 years and hence, patta no.1190 was issued in his favour during the Up-Dating Revenue Records Scheme. Whileso, on the basis of a petition submitted by the fourth respondent, the first respondent passed the the impugned order. Hence, this writ petition.

3.The learned counsel appearing for the petitioners submitted that once patta issued in terms of Section 3 of Tamil Nadu Patta Pass Book Act, the said patta has to be cancelled or modified by the Tahsildar under Section 10 of the said Act and not by the District Revenue Officer. However, the fourth respondent straight away submitted petition before the first respondent and the first respondent also without understanding the Tamil Nadu Patta Pass Book Act straight away entertained the petition submitted by the fourth respondent which is not sustainable one. The learned counsel further submitted that the District Revenue Officer has no power to usurp the power of the Tahsildar and hence, this Court may set aside the impugned order and remand the matter to the third respondent for fresh consideration in terms of Section 10 of the Tamil Nadu Patta Pass Book Act.

4.The learned counsel appearing for the fourth respondent raise no serious objection for the request now made by the learned counsel appearing for the petitioners.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. Admittedly, patta in respect of the subject property was issued in favour of the petitioners father in terms of Section 3 of the Tamil Nadu Patta Pass Book Act. As per Section 10 of the said Act, any modification or alteration is permissible only before the Tahsildar, however, contrary to the same, the District Revenue Officer had straight away entertained the petition submitted by the fourth respondent and passed the impugned order, which is not sustainable and is clear violation of the Act.

7.In view of the above, the order of the first respondent dated 28.12.2013 is set aside. The first respondent is directed to forward the entire papers to the third respondent. On receipt of the same, the third respondent is directed to pass appropriate orders, after affording opportunity to the petitioners as well as the fourth respondent.

8.The writ petition is allowed on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

28.06.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The District Revenue Officer,
Krishnagiri District,
Krishnagiri: 635 001.

2.The Sub Collector,
Hosur.

3.The Tahsildar,
Hosur.

M.DHANDAPANI,J.
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