BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.11.2022
DELIVERED ON : 08.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.16331 of 2013
and
M.P(MD)No.1 of 2013

R.Ramasamy (Died)

2.R.Rajammal
3.R.Rengarajan
4.R.Jeyachandran
5.R.Srinivasan
6.R.Rajeswari
7.R.Vasantha
8.K.Indirani ... Petitioners

(Petitioners 2 to 8 are substituted vide Court order, dated 23.09.2022, in W.M.P(MD)No.2100 of 2019 in W.P(MD)No.16331 of 2013)

Vs.

1.The Revenue Divisional Officer,
Usilampatti Revenue Division,
Madurai District.

2.Rajalakshmi ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondents particularly that of the first respondent pertaining to his proceedings Na.ka.No.2970-2010/A3, dated 27.04.2010 and quash the same.

For Petitioners	: M/s.A.P.Athithan
For R-1	: M/s.M.Lingadurai Special Government Pleader
For R-2	: M/s.A.Sivasubramanian

ORDER

The present Writ Petition has been filed challenging an enquiry notice issued by the first respondent herein, informing the petitioner and the second respondent herein to appear for an enquiry relating to transfer of patta.

2. According to the petitioner, the survey number in dispute, namely, Survey No.360/2 was taken over by the Government under Tamil Nadu Act 30 of 1963 and patta was granted in favour of his father, Rengasamy Naidu. However, the second respondent claimed that she had purchased the disputed land from the heirs of one Rengasamy Naidu and claimed patta for

the said property. Since the patta was standing in the name of the writ petitioner, the second respondent had approached the first respondent for cancellation of the said patta and transferring the patta in her name.

3. The petitioner had contended that the first respondent can only be an Appellate Authority under the Tamil Nadu Patta Passbook Act and he cannot entertain an appeal, without an order being passed by the Tahsildar. He has further contended that patta has been granted to the writ petitioner's father under Tamil Nadu Act 30 of 1963 and hence, the first respondent herein, being a revenue authority, does not have any powers to entertain an application for cancellation of the said settlement patta. In view of the above said facts, the present writ petition has been filed challenging the enquiry notice.

4. The learned Special Government Pleader has filed a counter contending that what was granted in favour of the writ petitioner was only a rough patta on 24.04.1970, calling for objections. The adangal filed by the writ petitioner also refers to only the said rough patta. He further contended that 17.09.1998 adangal extract also referred to the said rough patta No.55.

5. He further contended that the patta filed by the writ petitioner in the typed set of papers, namely, patta No.981 is granted only during the UDR proceedings. Hence, according to the learned Special Government Pleader, no patta was granted in favour of the writ petitioner during settlement proceedings under Tamil Nadu Act 30 of 1963. Therefore, the revenue authorities are entitled to consider the appeal filed by the second respondent herein for cancellation of the said patta. Hence, he prayed for dismissal of the writ petition.

6. I have carefully considered the submissions made on either side.

7. The main contention of the writ petitioner is that unless an order was passed by the Tahsildar, an appeal would not lie to the first respondent herein. In the present case, the petitioner has been granted patta on 30.09.1987, by the Special Tahsildar under UDR Scheme. Hence, the second respondent is entitled to challenge the same before the revenue authorities.

8. The next contention of the writ petitioner is that his father has been granted patta during settlement proceedings and the said patta cannot be challenged before the revenue authorities. As rightly contended by the learned Special Government Pleader, only a rough patta was issued to the writ petitioner in the year 1970 and there are no records to indicate that, thereafter patta was issued in favour of the writ petitioner's father under Tamil Nadu Act 30 of 1963.

9. Whenever any dispute arises with regard to the entries during UDR proceedings, the District Revenue Officer alone is the competent authority to consider the same. The patta produced by the writ petitioner, dated 30.09.1987, clearly indicates that it has been issued by the Special Tahsildar under the UDR Scheme. Hence, it is clear that the present impugned notice has been issued by the first respondent herein without any jurisdiction.

10. In view of the above said facts, the enquiry notice impugned in the writ petition is set aside. However, the second respondent is at liberty to approach the District Revenue Officer, Madurai for rectification of mistakes, if any, during UDR proceedings. With the above said

observations, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

08.11.2022

Index : Yes / No
Internet : Yes / No
btr

To

The Revenue Divisional Officer,
Usilampatti Revenue Division,
Madurai District.

R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.16331 of 2013

08.11.2022