



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.4189 of 2022

and

W.M.P. (MD) .No.3592 of 2022

Logambal

... Petitioner

Vs.

1.The District Collector,
Tiruchirappalli District,
Tiruchirappalli.

2.The District Revenue Officer,
Tiruchirappalli District,
Tiruchirappalli.

3.The Revenue Divisional Officer,
Tiruchirappalli Division,
Tiruchirappalli.

...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 pertaining to the second respondent herein made in his proceedings in Na.Ka.Aa6/5606/2016 dated 14.12.2021 and to quash the same as illegal.

For Petitioner : M/s.AL.Ganthimathi

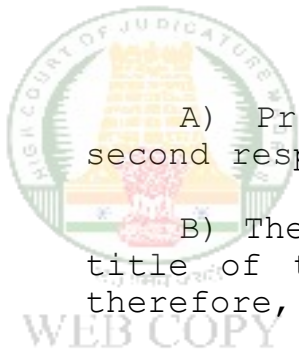
For Respondents : Mr.B.Saravanan

Additional Government Pleader.

ORDER

This Writ Petition has been filed challenging the order dated 14.12.2021 passed by the second respondent under Section 13 of the Patta Passbook Act rejecting the revision petition.

2. The said revision petition was filed by the petitioner's husband, late Jegannathan, aggrieved by the cancellation of patta, which was earlier standing in his name, by the order of the third respondent. The petitioner has challenged the impugned order raising the following grounds:



A) Principles of natural justice have been violated by the second respondent before passing the impugned order.

B) The second and third respondents failed to consider that the title of the property has been affirmed by the Civil Courts and therefore, under the guise of enquiry, they cannot review the same.

C) The second and third respondents have failed to consider the *locus standi* of the said Ganapathy to maintain the petition seeking for cancellation of patta standing in the name of the petitioner's husband, late Jegannathan.

D) The second respondent failed to consider that the petitioner's husband and others, the respondents in the proceedings of the third respondent, entered appearance and filed Vakalat and counter through their advocate on 12.10.2015, however, the third respondent without considering the counter and without any hearing, straight away passed an order which violates the principles of natural justice.

E) The second and third respondents failed to consider that the school, temple, water tank and pump are not situated in the land in dispute, but in other survey numbers.

3. Mrs.AL.Ganthimathi, learned counsel for the petitioner drew the attention of this Court to the impugned order as well as to the grounds raised in the revision petition filed under Section 13 of the Patta Passbook Act by the petitioner's husband, who is no more now. She would submit that, as seen from the impugned order, the grounds raised by the petitioner with regard to the Civil Court decrees, which have been passed in favour of the petitioner's husband, have not been considered. She would also submit that a suit in O.S.No.455 of 1978 was filed against the petitioner's husband, late Jegannathan and the said suit was dismissed, which was also upheld by the Lower Appellate Court in A.S.No.77 of 1996. The said contention was also raised in the revision petition, but under the impugned order, the same has not been considered.

4. Further, it is the contention of the petitioner that no proper opportunity of hearing was granted to the petitioner with regard to the contentions raised in the revision petition, which was earlier filed by the petitioner's husband, late Jegannathan, by the second respondent under the impugned order. It is also her contention that the second respondent failed to consider the fact that there is no school, temple, water tank and pump, as reflected in the impugned order, in the subject property. According to the petitioner, arbitrarily and without considering the documents placed on record and by not adhering to the principles of natural justice and by a non-speaking order, the impugned order has been passed.



5. This Court has perused and examined the impugned order as well as the grounds raised in the revision petition filed under Section 13 of the Patta Passbook Act, by the petitioner's husband . It is seen that the said grounds raised in this Writ Petition were also raised in the revision petition. But, under the impugned order, the Civil Court decrees which went in favour of the petitioner's husband and confirmed by the Lower Appellate Court have not been considered. A categorical stand has also been taken by the petitioner's husband in the revision petition that there is no school, temple, water tank and pump, but by a non-speaking order, the third respondent has held that there exists a school, temple, water tank and pump.

6. Therefore, this Court is of the considered view that, being a non-speaking order with regard to the contentions raised by the petitioner and in view of the fact that proper opportunity of hearing was not granted to the petitioner in the revision proceedings, the impugned order has been passed in violation of the principles of natural justice and by non-application of mind to the contentions raised by the petitioner. Hence, the impugned order has to be necessarily quashed and the matter has to be remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner and the other necessary parties, whom the second respondent deems fit to enquire.

7. Accordingly, the impugned order dated 14.12.2021 is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner and the other necessary parties, whom the second respondent deems fit to enquire, within a period of six (6) months from the date of receipt of a copy of this order.

8. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant



To

1.The District Collector,
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2.The District Revenue Officer,
Tiruchirappalli District,
Tiruchirappalli.

3.The Revenue Divisional Officer,
Tiruchirappalli Division,
Tiruchirappalli.

+1 CC to M/s.SPL GP (SR-11207[F] dated 10/03/2022)

+1 CC to M/s.SL.GANTHIMATHI, Advocate (SR-11108[F] dated
10/03/2022)

W.P. (MD) .No.4189 of 2022
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