IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11566 of 2023
and
W.M.P.No.11463 of 2023

M/s.Lakshmipathi Brick Works,
A Registered Partnership Firm;
being represented by one of its partners:
P.Srinivasan, Son of K.Parthasarathy,
No.11, Vada Noombal Road, Perumal Agaram Village,
Chennai – 600 077. ... Petitioner

Vs.

1.The Collector,
Office of the Collector Chennai District,
Chennai – 1.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Central Chennai Revenue Division.

3.The Tahsildar Maduravoyal Taluk,
Office of the Tahsildar Maduravoyal Taluk, Nolambur.

4.Balan ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in respect of the proceedings bearing Naka.No.A3/736/2023 dated 27.02.2023 and thereon quash the same and consequently restrain the 2nd respondent from passing any order as to cancellation of Patta or in any manner dealing with the property belonging to the petitioner / partnership firm comprised in Survey No.102/3B, land of an extent of acre 0.19 cents, situated in Nolumbur Village, Maduravoyal Taluk, Chennai District.

For Petitioner	: Mr.A.Palaniappan
For R1 to R3	: Mr.T.Arun Kumar, Additional Government Pleader
For R4	: Mr.P.Mohanraj for Mr.S.Vasanth Raman

ORDER

The notice issued by the Revenue Divisional Officer, Central Chennai in notice dated 27.02.2023 is under challenge in the present Writ Petition.

2. The impugned notice has been mainly challenged by the petitioner on the ground of jurisdiction. Since the Revenue Divisional Officer is an appellate authority under the provisions of the Tamil Nadu Patta Passbook Act, 1983.

3. The learned counsel for the petitioner mainly contended that the Tahsildar, Ambattur (now Maduravoyal) has initially adjudicated the issues based on the order dated 15.04.2005, granting Patta in favour of the writ petitioner. It is not in dispute that no further action has been taken by the 4th respondent and therefore the said order became final. Thus, the Revenue Divisional Officer has no jurisdiction to conduct an enquiry by issuing the impugned notice dated 27.02.2023.

4. The learned counsel for the 4th respondent raised an objection by stating that the entire extent of land has been acquired by the Government for the benefit of the Tamil Nadu Housing Board. After acquiring the land, a portion of land measuring to an extent of 52 cents in Survey No.102/3 was re-conveyed. In respect of the said re-conveyed land, there is a claim between the petitioner and the 4th respondent.

5. That being the factum, the Revenue Divisional Officer has initiated action to verify the documents and determine the issues between the parties. Thus, there is no infirmity and the Writ Petition is to be rejected.

6. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 made a submission that the entire extent of lands were acquired for Tamil Nadu Housing Board and subsequently, 52 cents were re-conveyed and the Government formed an opinion that the said portion of land is not required for public purposes. There is a dispute regarding the re-conveyed portion of the land between the petitioner and the 4^{th} respondent and thus, an enquiry is required for the purpose of determining the right between the parties for grant of Patta.

7. It is brought to the notice of this Court that the parties including the writ petitioner have initially appeared before the Revenue Divisional Officer and when the enquiry is in progress, the present Writ Petition is filed.

8. Revenue or Patta proceedings would not confer title. Patta has to be granted to the owner of the property as per Section 3 of the Tamil Nadu Patta Passbook Act. For the purpose of considering the application submitted for grant of Patta, authorities have to conduct an enquiry with reference to the documents and evidences produced by the respective parties.

9. In the present case, the petitioner states that Patta was granted in the year 2005 in his favour. The 4th respondent claims that a portion of the property is disputed and therefore, an adjudication is required for the purpose of ascertaining the facts for grant of Patta or to cancel the Patta granted in favour of the petitioner initially.

10. Patta issued earlier alone cannot be relied upon for the purpose of claiming right of title. Revenue proceedings are subject to change based on the documents and evidences. Therefore, person submitting an application for grant of Patta, cancellation of Patta or mutation of revenue records requires adjudication by the competent authorities by following the procedures. Thus, the petitioner cannot rely upon the order passed by the Tahsildar, Ambattur in proceedings dated 15.04.2005 and contended that no further adjudication can be conducted. Even if the contested orders are subject to challenge on account of various changes and in the present case, the acquired lands were re-conveyed.

11. The only grievance of the writ petitioner to be considered is that the Revenue Divisional Officer is the appellate authority and in the event of allowing the Revenue Divisional Officer to adjudicate the issues, parties may lose the right of appeal. The Tahsildar is the original authority under the provisions of the Tamil Nadu Patta Passbook Act. Thus, he has to adjudicate at the first instance by affording opportunity to the parties and any person aggrieved may prefer an appeal thereafter.

12. In view of the facts and circumstances, the Revenue Divisional Officer, Central Chennai / 2nd respondent is directed to send the subject file to the 3rd respondent / the Tahsildar, Maduravoyal Taluk within a period of two (2) weeks from the date of receipt of a copy of this order.

13. On receipt of the files, the Tahsildar, Maduravoyal Taluk is directed to fix the date and time for conducting an enquiry and communicate the same to all the parties and thereafter, conduct an enquiry and pass orders on merits and in accordance with law as expeditiously as possible, preferably within a period of three (3) months.

14. In the result, the Writ Petition stands disposed of. Consequently the connected Miscellaneous Petition is closed. No costs.

11.09.2023

skr
Index : Yes
Speaking order

To

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3.The Tahsildar Maduravoyal Taluk,
Office of the Tahsildar Maduravoyal Taluk, Nolambur.

S.M.SUBRAMANIAM, J.

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