



WEB COPY



W.P.No.30370 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.30370 of 2016 and
W.M.P.No.26337 of 2016

Palanisamy Gounder

..

Petitioner

VS

1. The Revenue Divisional Officer
Tiruppur Revenue Division
Tiruppur District.

2. Samathal

3. Govindammal

4. Palanisamy

5. Padmavathy

6. Ponnammal

..

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings conducting by the first respondent in Na.Ka.621/2016/A2 dated 02.03.2016 and quash the same.

For Petitioner : Mr.P.Nethaji

For Respondents : Mr.S.Ravichandran
Additional Government Pleader

ORDER

The memo dated 02.03.2016, issued by the Revenue Divisional Officer, Tiruppur, asking the petitioner to appear for enquiry on 07.03.2016 at 4.00 pm is under challenge in the present writ petition.



WEB COPY



W.P.No.30370 of 2016

2. An application was filed before the Revenue Divisional Officer for cancellation of patta. The Revenue Divisional Officer issued summons to the petitioner to appear for an enquiry. Instead of appearing before the Revenue Divisional Officer to defend his case, the petitioner has chosen to file the present writ petition and by virtue of an interim order, the entire enquiry is stalled for a period of seven years.

3. A writ against an enquiry call-letter is not entertainable in a routine manner. It is entertainable only if such a letter has been issued by an incompetent authority, having no jurisdiction. Regarding the allegations of *malafide*, the authority against whom such allegations are raised have to be impleaded in their personal capacity. In all other cases, such notice for enquiry is to be responded by the addressee concerned for the purpose of defending their case.

4. The writ on hand is where, an interim order was granted in the year 2016 and the matter was not listed periodically. The petitioner has taken advantage of the interim order and deprived the right of the respondent for effective adjudication of issues for cancellation of patta or



W.P.No.30370 of 2016

otherwise.

WEB COPY

5. Any interim order affecting the right of the contesting respondents are to be heard as early as possible, since an interim order cannot be allowed to be taken undue advantage by any of the parties of the litigation. Any such interim order, granted in a writ proceedings, cannot cause prejudice to the rights of the opposite party and thus, this Court is of the opinion that the spirit of Article 226(3) of the Constitution of India must be followed scrupulously and the matters are to be listed by the Registry of High Court periodically so as to ensure that those cases, where interim orders in force, are disposed of at the earliest.

6. The learned Additional Government pleader brought to the notice of this Court that a civil suit between the parties is pending. If that is so, then the application for grant of patta or cancellation of patta is to be considered only after reaching finality in the civil litigation. During the pendency of the civil litigation, the Revenue Authorities are not empowered to grant patta or cancel the same under the provisions of the Patta Passbook Act. In the event of reaching finality in the civil litigation, either of the parties shall approach the Revenue Authorities by way of an



W.P.No.30370 of 2016

application for grant of patta or its cancellation. Thus, the present enquiry notice deserves no interference and if the civil litigation is already concluded, the first respondent is at liberty to proceed with the application and if it is pending, then, all the proceedings are to be kept in abeyance.

7. Accordingly, the writ petition stands disposed of. There will be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

Index : Yes/No
Neutral Citation : Yes/No

25.04.2023

drm



W.P.No.30370 of 2016

To:

WEB COPY

1. The Revenue Divisional Officer
Tiruppur Revenue Division
Tiruppur District.



WEB COPY



W.P.No.30370 of 2016

S.M. SUBRAMANIAM, J.

drm

W.P.No.30370 of 2016

25.04.2023