IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12875 of 2023

N.Padmasini

Rep. by her Power Agent
B.Suresh Raj .. Petitioner

vs

1. The District Collector
   Collectorate Office
   Rajaji Salai, Fourth Floor
   62, Bench Road
   George Town
   Chennai – 600 001.

2. The Revenue Divisional Officer
   Central Chennai Division
   Padikuppam Road (Ambattur Estate Road)
   Anna Nagar West Extension
   Chennai – 600 101.

3. The Tahsildar
   Aminjikarai Taluk Office
   Shenoy Nagar
   Chennai 600 030.

4. R.J.Veeraragavan

5. The Commissioner of Revenue Administration
   Chepauk, Chennai – 600 005.

[R5 *suo motu* impleaded vide order dated
27.04.2023 in W.P.No.12875 of 2023] .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent / Revenue Divisional Officer, Central Chennai Division to conduct enquiry and dispose the appeal dated 01.03.2023 preferred by the petitioner.

For Petitioner	:	Mr.M.Guruprasad
For Respondents R1 to R3 & R5	:	Mr.Abhishek Murthy Government Advocate

ORDER

The relief sought for in the present writ petition is to direct the second respondent / Revenue Divisional Officer, Central Chennai Division to conduct an enquiry and dispose of the appeal dated 01.03.2023 preferred by the petitioner.

2. The petitioner states that, originally, about 59 cents of land situated at Koyambedu Village, comprised in Survey No.9/3B was owned by M/s. Tarapore & Co Brick Works and they have purchased the same from their vendors namely, one A.K.Sundararaja Mudaliar & his son S.Sampath vide sale deed registered as Document No.1640/1955. Thereafter, the said M/s.Tarapore & Co Brick Works sold 2880 Sq.ft of land out of the larger extent of 59 cents in favour of one Ms.Sheela vide sale deed registered as Document No.1558/1987 and she was in absolute possession and enjoyment of the same.

3. The said Sheela sold the said property in favour of the

Principal of the petitioner Mrs.N.Padmasinin in Document No.6011/1991 and the petitioner thereafter purchased the property and submitted an application for transfer of patta in her name. The said application was rejected and the petitioner preferred an appeal before the Revenue Divisional Officer, Central Chennai Division on 01.03.2023, which is yet to be disposed of.

4. Granting patta, its cancellation or mutation of revenue records are to be carried on strictly by following the procedures as contemplated under the Patta Passbook Act. All such applications are to be presented before the competent authorities under the prescribed format by paying the prescribed fee. The applications received in this regard are to be maintained by the competent authority in an order and by registering the same for the purpose of conducting an enquiry by affording opportunity to all the parties and thereafter take a decision and pass appropriate orders.

5. Since the appeal is statutory in nature, the authorities competent are bound to follow the procedures scrupulously and dispose of the appeal as expeditiously as possible. In the present case, the learned Government Advocate brought to the notice of this Court that the petitioner sent a representation, which would be insufficient to satisfy the

requirement of an appeal. Thus, the petitioner has to submit appropriate appeal in a prescribed format by paying the fees prescribed. More so, the representation now enclosed along with the writ petition is dated 01.03.2023. Hardly one month and twenty five days have lapsed and this Court is of the considered opinion that the authorities must be given a reasonable time to dispose of such matters.

6. Filing an appeal and immediately approaching the High Court by way of a writ proceedings, at no circumstances be appreciated. Any statutory authority, who is over burdened with public duties, must be given reasonable time to dispose of the appeal. Thus, the practice of filing a writ petition immediately after sending a representation cannot be appreciated and the petitioner should understand that the public authorities have to deal with many such appeals filed by many number of citizens, who are all aggrieved from and out of the orders passed by the original authorities or by the appellate authorities.

7. No doubt, the aggrieved person may be in hurry for getting relief. However, the authorities have to treat all such appeals uniformly and without causing any discrimination. Applications for patta and appeals

filed before the Revenue Divisional Officer are to be dealt with in the order of seniority and by considering the urgency in a particular case. Preference can be given to an appeal, where there is an urgency. In all other cases, enquiry is to be conducted in a systematic manner and without causing any discrimination and by passing appropriate orders by avoiding undue delay.

8. A balanced and pragmatic approach in such matters are imminent. It may not be possible for every such aggrieved persons to approach the High Court by filing a writ petition to dispose of their applications/appeals. The Statutory Appeals filed by the aggrieved persons are to be disposed of by the Authorities, which is the public duty. Thus the practice of filing a writ petition before the High Court, soon after filing of appeal is to be avoided. If at all the applications/appeals are not disposed of by the Competent Authorities within a reasonable period of time, then alone the cause would arise for the purpose of filing a writ petition.

9. Thus the writ petition to direct the Authorities to dispose of the representations/applications/appeals are to be entertained. If no orders are passed by such Authorities within a reasonable period of time and in the absence of any contemplation of specific time limit, the reasonable time

is to be considered with reference to the issues raised by the parties.

10. The growing trend of filing a writ petition immediately after submitting an application / appeal need not be entertained by the High Court. A reasonable time must be granted to the authorities to scrutinise the application and the documents filed by the parties and thereafter fix a date for hearing the appeal.

11. Rule 4 of the Tamil Nadu Patta Passbook Rules, 1987 reads as follows:

> "***4. Procedure on receipt of application or information.*** -
> *(1) On receipt of the application or information, the Tahsildar shall make an entry in the "Register of Applications Received" in the order of receipt in Form III. The Register shall be maintained village-wise.*
>
> *(2) On the basis of the information furnished in the application and as available in the existing land records or obtained otherwise, the Tahsildar shall cause to be served or despatched, under certificate of posting, to the persons having interest on the land a notice in Form IV calling upon them to make representation either orally, or in writing at a specific place on a specified date which shall be not less than fifteen days and forty days later than the date of receipt of the application or information.*
>
> *(3) On the prescribed date, the Tahsildar shall conduct a summary enquiry. At the enquiry, on consideration of age, literacy and occupation, the*

Tahsildar may permit an authorised agent of the owner to appear on his behalf to supplement whatever the owner has to state orally or in writing. No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry. There shall not be adjournment of the enquiry not more than twice and that adjournment shall be granted only on application made by the parties requesting for adjournment. Reasons for granting or refusing the adjournment shall be recorded by the Tahsildar in writing.

(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impringe on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records.

(5) The Tahsildar shall first obtain declaration in Form V from the owner who has not made any application for Patta Pass Book and, then, he shall issue Patta Pass Book in accordance with the provisions of the Act.

(6) (i) The Tahsildar shall publish a notice in the District Gazette informing that a copy of Form VII will be available in a conspicuous place in the village for verification for a period of seven days from the date of publication of notice inviting the land owners to file their objections, if any, in writing, to the Tahsildar within twenty-two days from the date of publication of notice and such notice shall also be published in the manner specified in sub-rule (i) of rule 3 on expiry of the period specified in the notice. Further enquiry shall be conducted. If necessary, and Form VII corrected accordingly. Only thereafter, entries in the Register in Form VII shall be made village-wise for

the entire taluk.

(ii) The Tahsildar while passing orders shall see that in the cases of land assigned to Scheduled Castes/Scheduled Tribes, under conditional assignment, the conditions under which they are granted are not violated and transfers to non-Scheduled Castes and Scheduled Tribes are not recognised. The Tahsildar shall record in the Register of Patta Pass Book, China and Patta Pass Book in red ink, the condition that the land is non-alienable to a person other than Scheduled Castes/Scheduled Tribes, as the case may be.

(iii) When breach of conditions, if any, are noticed in the cases of lands assigned conditionally, the Tahsildar shall report to the Revenue Divisional Officer for further follow up action for the resumption of such land or lands under the provisions in Revenue Standing Order.

(7) The person who acquires by succession, survivorship, inheritance, partition, purchase, or otherwise or by decree or order of a Court or by order of the Government or other authority, any right in or over any land as owner shall send a report in writing to the Tahsildar with details of such acquisition of rights. On receipt of such report, the Tahsildar shall make an enquiry in accordance with the procedure set out in these rules for the purpose of modification of entries in the Patta Pass Book already issued or for the purpose of issuing new Patta Pass Book. Within fifteen days of completion of the said enquiry, the Tahsildar shall make arrangement so for issuing orders for modification of entries in the Patta Pass Book or for effecting sub-divisions, if necessary, on collection of sub-division fee-of Rs. 3 (Rupees three only) by way of Court-fee labels and to make necessary entries in the Patta Pass Book or for issue of a new Patta Pass Book or otherwise, as the case may be. The aforesaid order shall be communicated to the parties concerned under certificate of posting

or by service in person. A copy of the said order shall be communicated to the office of the Sub-Registrar exercising jurisdiction over the land concerned."

The procedure, on receipt of an application or information under the Patta Passbook Act, has been clearly stipulated in the Rules.

12. As far as the appeal is concerned, Rule 14 contemplates that, "An appeal against any order of the Tahsildar passed under the Act shall be filed before the officer in charge of Revenue Division in whose jurisdiction the property lies within a period of thirty days from the date of the receipt of the order."

13. In the context of the provisions of the Patta Passbook Act and the Tamil Nadu Patta Passbook Rules, 1987, every authority is conferred with the power to deal with grant of patta, its cancellation or mutation of revenue records. On receipt of an application, the authority has to register the application immediately and such registration must be intimated to the parties concerned. Thereafter, the procedure as contemplated under Rule 4 of the Tamil Nadu Patta Passbook Rules, 1987 are to be followed scrupulously for the purpose of conducting an enquiry and for passing orders on the application submitted by the person.

14. When the procedures are unambiguously prescribed under the Rules, many number of writ petitions are filed on the ground that such procedures contemplated under the Rules are not followed by the competent authorities. Even registration of the applications are not done by many of the authorities. In this regard, the Commissioner of Revenue Administration, Chepauk, Chennai – 600 005 has to issue a comprehensive circular, intimating the authorities to follow the procedures in order to develop efficiency in public administration. In the event of any violation of the procedures, it is to be construed as a lapse and dereliction of duty warranting disciplinary action against the officials, who are all committing such misconducts.

15. For the purpose of issuing a circular, the Commissioner of Revenue Administration, Chepauk, Chennai – 600 005 has been *suo motu* impleaded as fifth respondent in the present writ petition and the learned Government Advocate takes notice on behalf of the impleaded respondent.

16. In Government Order in G.O.Ms.No.114 of the Personnel and Administrative Reforms (A) Department dated 02.08.2006, the procedures for dealing with the grievance petition are stipulated. The said order was issued by the Government of Tamil Nadu.

17. In the present case, the procedure, as contemplated under the Patta Passbook Act and the Rules therein, are to be followed without any violations. No doubt, in certain circumstances, the authorities may not be in a position to dispose of the application within the time stipulated. In such circumstances, the reasons are to be recorded appropriately and thereafter, it is to be disposed of as early as possible and without causing undue delay.

18. A writ petition filed immediately after filing of the application is not entertainable in view of the procedures contemplated under the provisions of the Patta Passbook Act and Rules. Only after proper registration of the application by the competent authority and after the expiry of the time limit granted to the authority, a writ petition is to be entertained, but not otherwise. The cause of action for filing a writ petition would arise only in the event of failure on the part of the public authority to perform his duties.

19. This being the scope of writ of mandamus, only after registration and expiry of the time limit granted to the authorities to dispose the application under the Statute and Rules, a writ petition may be filed.

An aggrieved person, filing an application / appeal, must file the same along with all requisite documents and after enquiry, if the documents are not enclosed by the person, then, the authorities shall return the papers, asking them to file the same along with the relevant documents. Only after filing of the relevant documents, the application / appeal are to be registered in the register, to be maintained by the competent authority and thereafter, summons are to be issued to all the parties for the purpose of conducting the enquiry. Such a procedure must be followed in order to develop efficiency in public administration and to avoid discrimination in the matter of dealing with the application or appeal as the case may be.

20. It not as if every person filing an application or appeal should get an order from the High Court to dispose of the application or appeal. Such a situation would lead to an anomalous circumstances and every citizen may not be in a position to approach the High Court to get such a relief. Equal opportunity, being the hallmark principle in the Indian Constitution, the authorities competent are bound to ensure equal opportunity to all the applicants / appellants without any discrimination and by following the procedures.

21. Large number of writ petitions are filed before the High

Court with relief to dispose of the applications/appeals. Regarding grant of patta, its cancellation, mutation of revenue records etc., the Commissioner of Revenue Administration is duty bound to ensure that the procedures contemplated under the Patta Pass Book Act and the Rules framed thereunder are scrupulously followed by the Competent Authorities across the State of Tamil Nadu. The Circular to be issued by the Commissioner in this regard shall contain a Clause that in the event of negligence, lapses or dereliction of duty on the part of any Competent Authority appropriate disciplinary proceedings will be initiated under the Service Rules.

22. Discrimination in any form in respect of the applications/appeals filed by the aggrieved persons are unconstitutional. The Equality Clause enunciated under the Constitution must be scrupulously followed even for the purpose of providing opportunity to redress grievances by the citizens through the Government machinery. In the event of not following any system in dealing with the applications/appeals by the Government Departments, it will lead to favourtism and nepotism and even corrupt practices. Thus the importance of a system on place must be rightly understood by the Head of the Department and the Government.

23. In the present writ petition, the petitioner has submitted the appeal on 01.03.2023, thus, the petitioner is at liberty to submit all the relevant documents along with the appeal already filed including additional grounds, if any and in the event of submitting all relevant documents, the second respondent shall register the appeal in the order of seniority and thereafter issue summons and conduct an enquiry by following the procedures and pass appropriate orders on merits and within a reasonable period of time.

24. The Commissioner of Revenue Administration, Chepauk, Chennai – 600 005 is directed to issue a comprehensive circular to all the competent authorities in the lines mentioned in the aforementioned paragraphs of this order and place the same before this Court on or before 06.06.2023.

25. Accordingly, the writ petition is disposed of. There will be no order as to costs.

26. **Registry is directed to list this matter under the caption 'For Reporting Compliance' on 07.06.2023.**

Index : Yes/No **27.04.2023**
Neutral Citation : Yes/No

<u>Note:</u> *Registry is directed to carry out the necessary amendments.*

Drm/Svn

To:

1. The District Collector
   Collectorate Office
   Rajaji Salai, Fourth Floor
   62, Bench Road
   George Town
   Chennai – 600 001.

2. The Revenue Divisional Officer
   Central Chennai Division
   Padikuppam Road (Ambattur Estate Road)
   Anna Nagar West Extension
   Chennai – 600 101.

3. The Tahsildar
   Aminjikarai Taluk Office
   Shenoy Nagar
   Chennai 600 030.

4. The Commissioner of Revenue Administration
   Chepauk, Chennai – 600 005.

S.M. SUBRAMANIAM, J.

drm/Svn

W.P.No.12875 of 2023

27.04.2023