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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.19382 of 2022
and W.M.P.Nos.18680 & 18682 of 2022

R. Syed Aslam ... Petitioner

Vs.

1.The Commissioner of
Land Administration,
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Commissioner,
Department of Land Survey and Settlement,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The District Collector,
District Collector Office,
Krishnagiri,
Krishnagiri District.

4.The District Revenue Officer,
District Collector Office,
Krishnagiri - 635 115,
Krishnagiri District.
5.The Revenue Divisional Officer,

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Revenue Divisional Office,
Hosur - 635 109,
Krishnagiri District.

6.The Tahsidar,
Taluk Office,
Shoolagiri - 635 117,
Krishnagiri District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceeding dated 01.06.2022 vide Na.Ka.No.K1(H)/34984/2011 passed by the 1st respondent, quash the same and consequently direct the 3rd respondent to issue the patta in compliance with the order dated 07.09.2011 in Na.Ka.No.I2/7300/11 passed by the 2nd respondent herein in respect of the land measuring to an extent of 6.08.0 Hectares comprised in Survey No.355, situate at Marudhandapalli Village, Shoolagiri Taluk, Krishnagiri District, within the time stipulated by this Court.

For Petitioner : Mr.R. Bharath Kumar

For Respondents : Mr.P. Sathish,
Additional Government Pleader

ORDER

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The petitioner's request for grant of patta, has been rejected through the first respondent's impugned order dated 01.06.2022, which is put under challenge in the present Writ Petition, together with a direction to the third respondent, to grant patta in compliance of implementation of the second respondent's order dated 07.09.2011.

2. <u>The short facts leading to passing of the impugned order is:</u>

When the petitioner's brother had made an application, seeking for grant of patta in respect of the subject lands, the fifth respondent/Revenue Divisional Officer, had rejected the application on 15.10.2008, by holding that the lands were classified as 'Anadheenam', even before the Tamil Nadu Estate Abolition Act and as such, grant of patta to an individual, is impermissible. On the petitioner's application seeking for re-classification, an inquiry was conducted on 08.08.2011 by the second respondent herein and through an order dated 07.09.2011, had held that the subject lands require to be re-classified in the name of the petitioner and his brother. When the petitioner had sought for implementation of the second respondent's order dated 07.09.2011, the

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first respondent herein, had passed the present impugned order dated 01.06.2022, cancelling the order passed by the second respondent dated 07.09.2011.

3. The entire claim of the petitioner is based on the proceedings of the Commissioner of Survey and Settlement dated 07.09.2011. According to the respondents, the proceedings of the second respondent herein, in passing this order dated 07.09.2011, recommending for re-classification of the lands by incorporating the name of the petitioner and his brother, is without authority, in view of G.O.Ms.No.714, Commissioner of Taxes and Religious Endowments Department dated 29.06.1987, which has barred all the settlement authorities, including the Commissioner of Survey and Settlement to entertain the applications or Revision Petitions under the said Act, after 20.08.1987.

4. In this background, it is seen that the second respondent, through his order dated 07.09.2011, had ordered for rectification of the revenue records as 'Ryotwari Punja' and had incorporated the petitioner and his family members' name therein. As stated earlier, the second

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respondent herein, may not have the authority to pass such orders, in view of the prohibition under G.O.Ms.No.714, Commercial Taxes and Religious Endowments Department dated 29.06.1987, to entertain the application after 20.08.1987.

5. Thus, the foundation on which, the petitioner has made his claim for grant of patta itself is illegal, in view of the bar under G.O.Ms.No.714 dated 29.06.1987, which withdraws powers of the Commissioner of Survey and Settlement, to entertain any application or Revision Petitions under the Act. Thus, the claim of the petitioner for grant of patta, passed on the second respondent's recommendation dated 07.09.2011, cannot be sustained. Even though this Court has come to the conclusion that the petitioner may not have the authority to seek for implementation of the order of the second respondent, there is a gross infirmity in the impugned proceedings of the first respondent herein, which may require interference.

6. As stated earlier, incidentally, the official namely

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Mr.S.Nagarajan, who had passed the impugned order, was the same person who had also passed the order in his capacity, as a Commissioner of Land Administration/first respondent.

7. The impugned proceedings is in contravention to the well laid down principles under the legal maxim *Nemo Debet Esse Judex in propria causa*. When the law does not recognize the action of a person to decide a dispute, in which, he himself has been a party earlier, subscribing to the action of the first respondent herein, in passing the impugned order in his capacity as the Commissioner of Land Administration, when he had earlier acted as the Revenue Divisional Officer/Sub Collector, while passing the order dated 15.10.2008, declining the petitioner's claim of grant of patta, is opposed to the aforesaid legal principle. The resultant effect would render the impugned order, as nullity. In this peculiar circumstances, this Court is of the view that such *Suo-Motu* powers of review could be granted to the Principal Secretary to Government, Revenue Department, for revision of the orders passed by the Commissioner of Survey and Settlement.

8. Accordingly, the Principal Secretary to Government, Revenue

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Department, is hereby *Suo-Motu* impleaded as a party-respondent.

9. The impleaded Principal Secretary shall review the orders passed by the Commissioner of Survey and Settlement dated 07.09.2011 and pass appropriate orders, after giving due opportunity to the petitioner, as well as any other persons who may be interested in the subject property and conclude such proceedings, within a period of three (3) months from the date of receipt of a copy of this order, without being influenced with any of the findings rendered by the first respondent in the impugned order.

10. With the above direction, the Writ Petition stands disposed of. No costs. Connected miscellaneous petitions are closed.

23.03.2023

Speaking/Non-speaking Order
Internet: Yes/No
Index: Yes/No
Neutral Citation: Yes/No

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M.S.RAMESH, J.

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To

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