IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.11.2023

Coram:

THE HON'BLE MR JUSTICE P. VELMURUGAN

W.P.No.29699 of 2017 and W.P.No.13504 of 2018
and
W.M.P.No.32022 of 2017 and W.M.P.Nos.15902 and 15903 of 2018

In W.P.No.29699 of 2017

C.Ramaiah ...Petitioner.

Versus

1.The District Revenue Officer
Collectorate,
Thiruvallur District.

2.The Revenue Divisional Officer
Office of the Revenue Divisional Officer,
Ponneri Taluk Office, Thiruvallur District.

3.The Tahsildar
Ponneri Taluk Office,
Thiruvallur District.

4.G.Mahendran ...Respondents

Prayer: This writ petition No.29699 of 2017 is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorari to call for the records made in Na.Ka.No.7514/2015/A3, dated 28.02.2017 issued by the First Respondent and quash the same as illegal.

For petitioner	:	Mr.K.Nagarajan
For respondents	:	
[R1 to R3]	:	Mr.P.Gurunathan Additional Government Pleader
[R4]	:	Mr.S.Veeraraghavan

W.P.No.13504 of 2018

Tmt.R.Kumarayee ...Petitioner.

Versus

1.District Revenue Officer
Thiruvallur District,
Thiruvallur.

2.The Tahsildar
Ponneri Taluk,
Ponneri, Thiruvallur District.

3.G.Mahendran. ...Respondents.

Prayer: This writ petition No.13504 of 2017 is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorarified mandamus to call for the records made in the impugned order dated 28.02.2017 made in Na.Ka.No.7514/2015/A3 passed by the 1st respondent, quash the same so far as the petitioner's survey numbers No.77/10A3 & 10B and consequently direct the 2nd respondent to restore the Patta No.1813 comprised in S.No.77/10A3 and Patta No.3583 comprised in S.No.77/10B respectively.

For petitioner : S.P.Sudalaiyandi

For respondents :
[R1 & R2] : Mr.P.Gurunathan
Additional Government Pleader

[R3] : Mr.S.Veeraraghavan

COMMON ORDER

This Writ Petition No.29699 of 2017 is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorari to call for the records made in Na.Ka.No.7514/2015/A3, dated 28.02.2017 issued by the First Respondent and quash the same as illegal and W.P.No.13504 of 2017 is filed under Article 226 of the Constitution of India, with a prayer to issue a writ of certiorarified mandamus to call for the records made in the impugned order dated 28.02.2017 made in Na.Ka.No.7514/2015/A3 passed by the 1st respondent, quash the same so far as the petitioner's Survey Nos.77/10A3 & 10B and consequently direct the 2nd respondent to restore the Patta No.1813 comprised in S.No.77/10A3 and Patta No.3583 comprised in S.No.77/10B respectively.

2. Learned counsel for the petitioners submitted that impugned order passed on 28.02.2017 by the 1st respondent, is in violation of the principles of natural justice and failure to follow *audi- alteram-partem* principle. Though the impugned order shows that the enquiry was conducted and notice was issued to the interested parties, however, the petitioners' counsel submitted that they were unable to serve any notice on them and, therefore, the impugned order passed by the 1st respondent is liable to be set aside. He has also taken yet another ground that so far as the issuance of Patta is concerned, the Tahsildar /2nd respondent alone is the competent authority and not the 1st respondent. The 1st respondent has no authority to pass any order regarding Patta and straightaway, it has to go with hierarchy of authority for issuance of notice challenging the impugned order and or any change in Patta, has to be dealt with only by the Tahsildar. The petitioners can file appeal before the concerned Revenue Divisional Officer and thereafter the revision has to be filed before the District Revenue Officer concerned. In this case, none of the procedures had been followed and further the 1st respondent has gone into issues regarding Titles and therefore, the impugned order(s) is/are liable to be set aside.

3. The learned counsel for the petitioner(s) further submitted that the 1st respondent has issued sale deed in favour of them and also issued the Patta and based on the Document, the patta was issued by the 1st respondent. When her name was cancelled from the Patta, an order came to be passed issuing Patta to the private respondent/4th respondent herein and she has to be given opportunity of being heard and after hearing her, he may pass the order. So, in this case, none of the procedures had been followed and therefore, the impugned orders are liable to be set aside.

4. Mr.P.Gurunathan, learned Additional Government pleader appearing for the official respondents submitted that there is no record to show that the notice was issued to the petitioners and also the copies served on them.

5. The learned counsel for the private respondent in both the writ petitions submitted that the notice was issued to the relevant parties and that enquiry was also conducted and they were duly served notice with RPAD (Registerd Post Acknowledgment Due). The petitioners also received the notice, but they failed to appear before the 1st respondent and therefore, proper opportunity was given and notice was served on her, but the petitioners did not utilize the opportunity, and therefore, now they cannot challenge the order dated 28.02.2017. Therefore, the same cannot be interfered with.

6. Heard both sides and perused all the materials available on record.

7. The main contention of the petitioners is that though they had purchased the property on 18.03.1997 and also petitioners' counsel has also produced proper Document and Title Deed and based on the Sale Deed, they also obtained the Patta, whereas the Patta was cancelled by the 1st respondent and the application was said to have been filed by the 3rd respondent, whereas before cancelling the Patta in her name by the 1st respondent, the application is said to have been filed by the 3rd respondent, but before cancelling the Patta in her name and before passing the order, no notice was issued by the 1st respondent on her and even the impugned order is also not served on her and without the Patta, being issued in her name, the Patta was subsequently cancelled, which is against the principles of natural justice.

8. Even though the learned counsel for the 3rd respondent pointed out that the impugned order referred about the issuance of notices to the interested parties and also for conducting enquiry and some of the rival claimants did not appear before the 1st respondent, and after conducting the enquiry in the manner known to law, they passed the order, whereas, a perusal of the records shows that no notice was sent to the petitioners and the petitioners' names are also not found in the list of the petitioners as to who were served with the notice and objections were called for and the order was only served on whom they were connected with the petitioners and the same were also marked in the end page of the impugned order. The endorsement in the order shows that no notice or order was served on the petitioners and the interested parties. Therefore, once the petitioners have got certain documents and based on the documents, they obtained the Patta and when the Tahsildar or the Revenue Officials, while changing the Patta or passing the orders adverse to the earlier Patta obtained by her, it is necessary for the Authorities to serve notice on the persons on whose name the Patta stands for and therefore, only after giving opportunity of hearing to them and conducting the enquiry in the manner known to law, the appropriate orders will have to be passed. In this case, it is clear that the impugned order shows that no notice was served on to the petitioners and no order was served.

9. The official respondents have also filed the counter, which is silent about the serving of notices and also about the communication of the impugned order to the petitioners.

10. Therefore, in the above circumstances, the impugned order is set aside and if the title dispute is involved, where the petitioners has got certain registered documents in order and in order to render substantial justice, mere conducting of the enquiry by the Revenue Department will not give the power to the 3rd respondent and therefore, the impugned order passed by the 1st respondent is set aside.

11. However, the parties are at liberty to work-out their remedy before the Civil Court for establishing their title and thereafter the interested parties can approach the Revenue Authorities to get their Patta changed, if necessary, based on the decisions of the Civil Court after deciding the Title.

12. Accordingly, with the above observations and directions, the writ petitions are disposed of. There shall be no order as to costs. Connected miscellaneous petitions are closed.

27.11.2023

Index :Yes/No
Speaking Order : Yes/No
Neutral Citation Case: Yes/No
nst
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Collectorate,
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P. VELMURUGAN,J.

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