BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.01.2023

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THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD).No.4451 of 2014
and
M.P.(MD).No.1 of 2014

Kunjari ... Petitioner

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Officer's Office,
Paramakudi Taluk,
Ramanathapuram District.

2.Nagalingam

3.Chandrasekaran

4.Jothi Kalyani

5.Jothi Lakshmi

6.The Tahsildar
Kadaladi Taluk,
Ramanathapuram District ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating tot he impugned order dated 10.01.2014 passed in Pa.Mu.(A4)/13273/2007 on the file of the 1st respondent herein, and quash the same.

For Petitioner :Mr.K.Rajeshwaran

For Respondents :Mr.V.Om.Prakash
Government Advocate for R1 & R6
:No appearance for R2 to R5

ORDER

The writ petition has been filed challenging the order of the 1st respondent dated 10.01.2014, wherein based upon the claim of the 2nd respondent herein, the patta standing in the name of the petitioner had been cancelled and the patta has been issued in favour of the 2nd respondent.

2. The case of the petitioner is that she owns an extent of 91.8 cents in Survey No.228/7, Sayal kudi Village, Kadaladi Taluk and that originally, the patta standing in her name was cancelled by the District Revenue Officer, Ramanathapuram District, which was challenged by her in W.P.No.1161 of 2004 and this Court, by its order dated 20.02.2006, after recording the statement of the then Government Advocate that notice has

not been issued, had set aside the order passed by the District Revenue Officer, Ramanathapuram. However, liberty was granted to the Revenue Authorities to the extent that if he finds that the petitioner herein had been granted patta not based on ground reality, it was open to the Revenue Authorities to take appropriate action and in doing so, notice should be issued to the petitioner and also sufficient opportunity should be given to the petitioner. Only on considering such representation/objections, the revenue authorities shall pass orders.

3. The learned counsel for the petitioner would submit that there was no notice of any hearing nor was the petitioner given any opportunity to make her representation. However, in total violation of the orders passed by this Court, the 1st respondent by order dated 10.01.2014 had passed orders, cancelling the patta standing in the name of the petitioner.

4. The learned Government Advocate appearing for the 1st and 6th respondents would submit that the land for which the patta has been granted in favour of the petitioner is a natham land. For such a huge extent, patta

could not have been given. Therefore, there is no error in the order passed by the 1st respondent. The petitioner would be at liberty to approach the concerned authority always, by producing documents to substantiate her claim against this order passed by the 1st respondent and an appeal remedy is also available before the District Revenue Officer concerned and therefore, this writ petition is not maintainable.

5. I have considered the rival submission made by the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 and 6.

6. A perusal of the order impugned would clearly indicate that the petitioner has not been put on notice in any of the proceedings. The petition has been filed by the 2nd respondent showing the 4th and 5th respondents as respondents in this petition. However, the 2nd respondent had proceeded to cancel the patta issued in favour of the petitioner. Inspite of a specific direction issued in the earlier writ petition in W.P.No.1161 of 2004 to issue notice to the petitioner before taking any action, no such notice has been

issued by the 1st respondent before issuing the impugned order. This is not only in violation of the earlier order passed by this Court, but is also in violation of the principles of natural justice. Hence, the objections raised by the learned Government Advocate that an appeal remedy is available before the District Revenue Officer is rejected.

7. In fine, the impugned order in this writ petition is set aside, the matter is remitted back to the 1st respondent. The 1st respondent shall issue notice to the petitioner before proceeding any further and give opportunity of hearing to the petitioner and the respondents 2 to 6 and thereafter, pass appropriate orders on merits and in accordance with law.

8. Accordingly, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.01.2023

Index : Yes / No
Speaking Order/Non Speaking Order
sbn

To

1.The Revenue Divisional Officer,
Revenue Divisional Officer's Office,
Paramakudi Taluk,
Ramanathapuram District.

2.The Tahsildar
Kadaladi Taluk,
Ramanathapuram District

K.KUMARESH BABU, J.

sbn

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