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W.P.No.4341 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.4341 of 2025

and

W.M.P. No.4859 of 2025 in W.P. No.4341 of 2025

1.Anandharaj
2.Tamilselvan

... Petitioners

Vs.

1.The Commissioner for Land Administration,
Office of the Commissioner for Land
Administration, Ezhilagam,
Chepauk, Chennai – 5.

2.The District Revenue Officer,
Perambalur District, Perambalur.

3.The Revenue Divisional Officer,
Perambalur Division, Perambalur.

4.The Tahsildar,
Veppanthattai Taluk,
Perambalur District.

5.Mr.Velusamy,
Son of Periyasamy Gounder,
Veppanthattai Village,
Veppanthattai Taluk,
Perambalur District.

... Respondents



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Writ Petition filed under Article 226 of The Constitution of India
praying to issue a Writ of Certiorari to call for the records of second
respondent in his proceedings bearing Na.Ka.Aa3/e-52110/2023 dated
23.01.2025 and quash the same.

For Petitioner : Mr.G.Ilamurugu

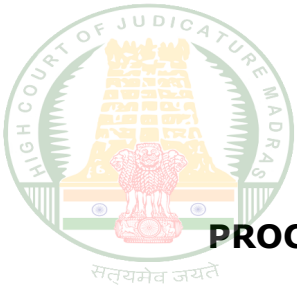
For Respondents : Mr.T.K.Saravanan,
Additional Government Pleader
for R1 to R4

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned main 'Writ Petition' (hereinafter 'WP' for the sake of
brevity) has been filed with a certiorari prayer assailing an 'order dated
23.01.2025 bearing reference Na.Ka.Aa3/e-52110/2023 made by R2
(The District Revenue Officer, Perambalur District, Perambalur)'
[hereinafter 'impugned order' for the sake of convenience and clarity].

2. Instant order now has to be read in conjunction with and in
continuation of earlier proceedings made in the previous listings on
10.02.2025, 12.02.2025 and 26.02.2025 which read as follows:



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PROCEEDINGS DATED 10.02.2025:

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'W.P.No.4341 of 2025

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

*(Order of the Court was
made by M.SUNDAR.J.,)*

Ms.K.Selva Priya, learned counsel
representing Mr.G.Ilamurugu, counsel on record for
writ petitioner requests for a short adjournment.
Request acceded to.

2. List under the cause list caption
'ADJOURNED ADMISSION' in the Admission Board i.e.,
Motion List day-after-tomorrow.
List on 12.02.2025.'

PROCEEDINGS DATED 12.02.2025:

'W.P.No.4341 of 2025
and
W.M.P.Nos.4858 & 4859 of 2025

M.SUNDAR, J.,
and
K. GOVINDARAJAN THILAKAVADI, J.,

(Order of the Court was made by M.SUNDAR, J.,)

When the matter was taken up, this Court
wanted to know from learned State Counsel, the
provision under which impugned order dated



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23.01.2025 bearing reference Na.Ka.Aa3/e.52110/2023 has been made by R2. Learned State Counsel submitted that impugned order has been made under Section 13 of 'Tamil Nadu Patta Pass Book Act, 1983 (Tamil Nadu Act 4 of 1986)' {hereinafter 'said Act' for the sake of brevity, convenience and clarity}.

2. However, learned counsel for writ petitioner submitted that it is not an order under Section 13 of said Act but sought time to examine and come up with provision under which impugned order has been made. Request acceded to.

3. List in the Admission Board i.e., Motion List under the same cause list caption i.e., ADJOURNED ADMISSION a fortnight hence.

List on 26.02.2025.'

PROCEEDINGS DATED 26.02.2025:

'W.P.No.4341 of 2025
and
W.M.P.Nos.4858 & 4859 of 2025
in W.P.No.4341 of 2025

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI.,J.

**[Order of the Court was made by
M.SUNDAR. J.,]**

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 12.02.2025.

2. Adverting to earlier proceedings, learned counsel for writ petitioner submits that the impugned order has been made under Revenue Standing Order 15(18) captioned 'Revision'.



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3. *Learned State counsel requests for a further accommodation to get further instructions and revert to this Court.*

List under the same cause list caption i.e., 'ADJOURNED ADMISSION' on 05.03.2025.

3. Though learned State counsel has already represented the matter, to complete the records, we issue notice to official respondents and Mr.T.K.Saravanan, learned Additional Government Pleader accepts notice for R1 to R4.

4. Mr.T.K.Saravanan, learned State counsel, adverting to earlier proceedings, submits that the impugned order has been made by R2 under Revenue Standing Order 15 (18), which reads as follows:

'RSO 15(18) Revision: The order of the authority making the assignment if no appeal is presented or of the appellate authority if an appeal is presented, is final, and no second appeal shall be admitted. But if at any time within three years of the original or appellate decision in cases of assignment made after 14.5.1973 if the Revenue Divisional Officer/District Revenue Officer/Collector is satisfied that there has been a material irregularity in the procedure or that the decision was grossly inequitable or that it exceeded the powers of the officer who passed it or that it was passed under a mistake of fact or



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owing to fraud or misrepresentation, he may in the case of an order passed by an officer subordinate to him, set aside, cancel or in any way modify the decision. The Commissioner of Land Administration or the Government may set aside, cancel or in any way modify the decision of any authority subordinate to them, if they are satisfied that the decision was grossly inequitable, etc. They may exercise these powers without any limit of time (i.e.) even in case prior to 14.5.1973, where there has been a material irregularity in the procedure or where the decision exceeded the powers of the officer, who passed it or where it was passed under a mistake of fact or owing to fraud or misrepresentation. The authorities competent to pass orders in revision under this para may also grant stay pending their orders in revision.

Govt.Lr.36741/LD3-1/97-1, Rev. dt. 15.7.97.

Every order passed by Government prior to the issue of the amendment to this Standing Order to the interference of the orders passed by the authority, subordinate to them, shall for all purposes, be deemed to have been validly made under this Standing Orders as amended.

Against an order in appeal under R.S.O.15-15, the revision petition shall be entertained on only one occasion. An application for revision petition may be presented to the Collector or District Revenue Officer against an order in appeal of the Revenue Divisional Officer and to the Commissioner of Land Administration against an order in appeal of the Collector



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or District Revenue Officer and to the Government against an order in appeal of the Commissioner of Land Administration, within 60 days from the date on which the decision of order sought to be revised was received by the applicant. All other petitions presented shall be treated as miscellaneous petition, bringing to notice the fact on which, an examination in the case may be done, if considered necessary, to consider whether revision in exercise of suo motu powers, is called for.

G.O.Ms.No.1536 Rev. dt. 26.7.1979

Bd.'s Ref.B1/4678/70-1, dt. 27.9.1979

C.S.No.2, dated 9.11.1979

In respect of assignment of house sites to Scheduled Castes, Scheduled Tribes and other eligible persons from the lands acquired with the funds of the Adi Dravidar and Tribal Welfare Department and taken possession of the order of the authority making the assignment (i.e. Special Tahsildar (Adi Dravidar and Tribal Welfare) concerned if an appeal is presented or if the appellate authority (i.e. District Adi Dravidar & Tribal Welfare Officer) if an appeal is presented, if final and no second appeal shall be admitted. But if at any time within three years of the original or appellate decision, the Director of Adi Dravidar & Tribal Welfare, Chennai is satisfied that there has been a material irregularity in the procedure or that the decision was grossly inequitable or that it exceeded the powers of the officer, who passed it or that it was passed under a



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mistake of fact or owing to fraud or misrepresentation, he may in the case of an order passed by an officer subordinate to him set aside, cancel, or in any way modify the decision. The Government may set aside, cancel or in any way modify the decision of any authority subordinate to them within three years. If they are satisfied that the decision was grossly inequitable, they may exercise similar powers, without any limit of time, where there has been a material irregularity in the procedure or where the decision exceeded the powers of the officers, who passed it or where it was passed under a mistake of fact or owing to fraud or misrepresentation. The authorities competent to pass orders in revision under this paragraph may also grant stay pending their orders in revision.

No application for revision shall ordinarily be entertained under this standing order, on expiration of 60 days from the date, on which the decision or order sought to be revised was received by the applicant, whether the revision is by the Director of Adi Dravidar & Tribal Welfare or by the Government. Revision Petitions should be stamped with a court fee label of five rupees.'

5. Adverting to RSO 15(18), learned State counsel submitted that R2 is subordinate to R1 and therefore, the writ petitioners can assail the impugned order before R1.



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6. In this regard, the penultimate paragraph of the impugned order is of relevance and the same reads as follows:

'இவ்வாணையின் மீது எவரேனும்
இடவுற்றுதலாக கருதினால் இவ்வுத்தரவு
கிடைக்கப்பெற்ற 30 நாட்களுக்குள் சென்னை, நில
நிர்வாக ஆணையர் அவர்களிடம் மேல்முறையீடு
செய்துகொள்ள இதன் மூலம் தெரிவிக்கப்படுகிறது.'

7. This takes us to the alternate remedy point.

8. Exceptions to alternate remedy are referred to as **Whirlpool** principle in legal parlance i.e., ratio laid down in **Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and others** reported in **(1998) 8 SCC 1**. The four exceptions are:

- (i) *Enforcement of fundamental rights;*
- (ii) *Violation of Natural Justice Principles (NJP);*
- (iii) *Order being 'wholly' without jurisdiction; and*
- (iv) *Vires of a statute being challenged.*



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9. In the case on hand, Mr.G.Ilamurugu, learned counsel for writ petitioners very fairly submitted that the matter at hand does not fall in any of the aforementioned exceptions. Learned counsel also fairly submits that there is nothing to demonstrate that the alternate remedy is inefficacious.

10. The above means that the writ petitioners have to approach R1 and assail the impugned order.

11. We preserve all the rights and contentions of the private respondent / R5 (Mr.Velusamy, S/o.Mr.Periyasamy Gounder) when writ petitioners approach R1. To be noted, this Court is informed that there are earlier civil Court proceedings inter-alia between writ petitioners and R5. As the rights and contentions of R5 are preserved, there is no impediment in disposing of the captioned main WP by dispensing with notice to R5 and directing the Registry to mark a copy of this order to R5.

12. As regards the penultimate paragraph of the impugned order, it is mentioned that writ petitioners should approach R1 within thirty



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days from the date of receipt of the impugned order. In this regard, we express no opinion on the delay or condonation and that is left to the discretion of R1.

13. Leaving open all questions, we relegate the writ petitioners to alternate remedy of approaching R1.

14. Captioned WP is disposed of in the aforesaid manner. Consequently, captioned Writ Miscellaneous Petition (WMP) thereat is disposed of as closed. There shall be no order as to costs.

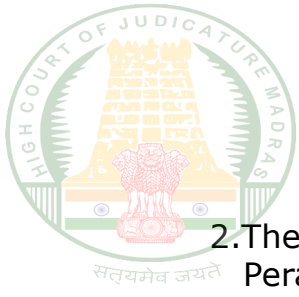
(M.S.,J.) (K.G.T.,J.)
05.03.2025

Index : Yes / No
Neutral Citation : Yes / No
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To

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