

(2012) 01 MAD CK 0039
In the Madras High Court
Case No : Writ Petition No. 19917 of 2011

N. Sripriya

APPELLANT

Vs

The Sub Collector, Hosur, Krishnagiri District, The Tahsildar,
Denkanikotta, Krishnagiri District and S. Sridharan

RESPONDENT

Date of Decision : 09-01-2012

Acts Referred:

Citation : (2012) 01 MAD CK 0039

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : R. Bharath Kumar, for the Appellant; R. Ravichandran, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice Vinod K. Sharma

1. The petitioner has approached this Court with a prayer for issuance of a Writ in the nature of Mandamus, directing the first respondent herein to

issue patta in favour of the petitioner in respect of land measuring 0.80 cents comprised in Survey No.63 situate at Kalukondapalli Village,

Denkanikottai Taluk, Krishnagiri District, after cancelling the patta No.1230 issued in favour of the third respondent in respect of 0.16 cents in

Survey No.63/2C2 on the basis of the petitioner's representation dated 18.07.2011. Section 3 of the Tamil Nadu Patta Pass-Book Act, 1983,

reads as under:

3. Issue of patta pass-book:(1) The Tahsildar shall issue a patta pass-book to every power in respect of land owned by him, on an application

made by him in this behalf. Any application received under this section shall be acknowledged by the Tahsildar or any other officer authorized by

him in this behalf

(2) A Taluk shall be the unit for the issue of patta pass-book.

(3) (a) As soon as may be, after the publication of the notification under sub Section (3) of section 1 bringing this section into force in an area and

before undertaking the work relating to the issue of patta pass book, the Tahsildar shall publish a notice in each village in such area informing the

public that patta pass book is to be issue dunder this Act to every owner and such owner shall apply for the issue of patta pass-book as provided

under this section.

(b) The notice shall contain such further particulars and shall be published in such manner, as may be prescribed.

(4) The application under sub section (1) shall be in such form, shall contain such declaration and particulars, and shall be made in such manner and

within such time, as may be prescribed.

(5) In cases where no application has been made by any owner within the time limit referred to in sub section (4) in respect of any land, the

Tahsildar shall, based on the entries made in the records available in his office, cause a notice to be served on the owner of the land concerned

requiring him to furnish any information or produce any document for his inspection and also to make his representation, if any, in writing for

making necessary entries in respect of the land concerned in the Register of Patta pass book maintained by him and for the purpose of issuing the

patta pass book.

(6) (a) Any owner on whom a notice has been served under sub section (5) shall be bound to furnish or produce for the inspection of the Tahsildar

within such time as may be specified in such notice or within such further time not exceeding thirty days as the Tahsildar may, in his discretion,

allow such information or documents, needed for making necessary entries in the register of Patta Pass Book in respect of the land concerned or

for the purpose of issuing the patta pass book, as may be within his knowledge or in his possession or power.

(b) Where, any information is furnished or any document is produced in accordance with the notice under sub section (5), the Tahsildar or any

officer authorized by him in this behalf shall give a written acknowledgment thereof to the person furnishing or producing the same and shall

endorse on such document a note under his signature stating the fact of its prosecution and the date thereof.

(7) On receipt of the application under sub section (1) or on the basis of information obtained by the Tahsildar under clause (b) of Sub section (6)

The Tahsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the persons having interest in the

land to make their representations either orally or in writing. After considering the claims of the persons having interest in the land, the Tahsildar

shall determine as to whom the patta pass book is to be issued and shall issue a patta pass book accordingly to the owner of the land concerned.

Provided that in the case of any owner who has not made an application under sub section (1) and in respect of whom a notice has been served

under sub section (5), no patta pass book shall be issued by the Tahsildar unless a declaration in the prescribed form is filed by the owner

concerned before the Tahsildar:

Provided further that in any case where the Tahsildar is satisfied that any person is not the owner of any land for which a patta pass book is applied

for or claimed, he shall for the reasons to be recorded in writing reject the application or claim, for the issue of patta pass book in respect of such

land.

(8) The patta pass book shall be in such form as may be prescribed and contain the following particulars, namely:-

(a) the survey number or sub division number, extent and local name, if any, of the land:

(b) the name and address of the owner:

(c) such other particulars as may be prescribed.

(9) While issuing a patta pass book under this section the Tahsildar shall cause all the entries and particulars as contained in such patta pass book,

to be made in the Register of Patta Pass Book maintained in the office of the Tahsildar for the purpose of record. The Register of patta pass book

shall be in such form and maintained in such manner, as may be prescribed.

(10) The patta pass book shall be issued under this section on the payment of such fees as may be prescribed.

2. A reading of Section 3 of the Tamil Nadu Patta Pass-Book Act, 1983, shows that the application for grant of patta is to be filed with the

Tahsildar, who exercised the quasi judicial power to decide the question of grant of patta.

3. There is no provision under the Act to file an application with the Sub Collector, nor the Sub Collector is legally bound to decide the application

filed by the party for grant of patta. The petitioner has not approached the competent authority for grant of patta. The petitioner therefore has no

legal right to seek a Writ in nature of Mandamus to direct Respondent No.1 to issue patta to the petitioner as he has no jurisdiction at all to issue

patta. The jurisdiction is with the Tahsildar only to whom no application is made. This writ petition is totally misconceived, thus not maintainable in

law. No merit. Dismissed.