



W.P.(MD)No.19657 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.19657 of 2021

and

W.M.P.(MD)Nos.16327 and 16329 of 2021

1.P.H.Sulthan

2.P.H.Mohaideen Pitchai

3.P.H.Ayub Khan

4.P.H.Mohammed Yusuf

... Petitioners

Vs.

1.The Additional Collector,
Collectorate,
Tuticorin District.

2.The Revenue Divisional Officer,
Kovilpatti, Tuticorin District.

3.The Tahsildhar,
Kayathaar,
Tuticorin District.

4.S.Muthaiah

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, calling for records relating to the impugned order of the 1st Respondent in his proceedings in



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Na.Ka.T6-9990-2017 dated 01.12.2020 confirming the order of the 2nd Respondent in his proceedings in Ni.Mu.No.A6/5055/2014 dated 17.01.2017 and consequently direct the Respondents No.1 to 3 to restore the patta entries made in favour of the Petitioners.

For Petitioners	: Mr.M.Ajmal Khan Senior Counsel for M/s.Ajmal Associates
For R1 to R3	: Mr.S.Jeyapriya Government Advocate
For R4	: No Appearance

ORDER

This writ petition has been filed challenging the order passed by the first respondent through impugned proceedings dated 01.12.2020 confirming the order passed by the second respondent through proceedings dated 17.01.2017 and for consequential directions to the respondents 1 to 3 to restore the patta entry in favour of the petitioners.

2.The case of the petitioners is that they are the absolute owners of the subject property in Survey No.209/8 measuring an extent of 0.60.5 hectares and the petitioners had purchased the same through a registered sale deed dated 02.03.2011 registered as document No.606/2011. The further case of the petitioners is that patta was also issued in their favour in patta No.1897. Whiles, the fourth respondent filed an appeal before the second respondent



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seeking cancellation of the patta issued in favour of the petitioners. The fourth respondent has come up with a case that the subject property is vested with his father and brother by virtue of the registered document dated 27.10.1953 and the fourth respondent is claiming right and title under them.

3.The second respondent dealt with the claim made by the fourth respondent and through the impugned proceedings dated 17.01.2017 cancelled the patta that was granted in favour of the petitioners and directed to issue patta in the name of the fourth respondent. Aggrieved by the same, the petitioners filed an appeal before the first respondent. The first respondent through impugned proceedings dated 01.12.2020 confirmed the order passed by the second respondent and also directed the parties to workout their remedy before the competent civil Court. Aggrieved by the same, the present writ petition has been filed before this Court.

4.Heard the learned counsel for the petitioner and the learned Government Advocate for the official respondents. The fourth respondent has been served with notice and his name is also printed in the cause list. But there is no representation on behalf of the fourth respondent either in person or through learned counsel.



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5.The only issue that arises for consideration in the present writ petition is as to whether the order passed by the first respondent through proceedings dated 01.12.2020 requires the interference by this Court.

6.On carefully going through the order passed by the first respondent, it is seen that the first respondent has extracted the case of the petitioners from page No.2 to page No.10 of the order dated 01.12.2020. Similarly, the first respondent has extracted the case of the fourth respondent from page No.10 to page No.15. The only operative portion of the order passed by the first respondent is extracted hereunder:

“கயத்தார் வட்டம் மற்றும் கிராமம் புல எண் 209/3B2B-ல் உள்ள நிலம் தொடர்பாக இரு தரப்பு ஆவணங்களை பரிசீலனை செய்ததில், மேற்படி தாவா புலம் சீராய்வு மனுதாரர்களின் முன்பாத்தியஸ்தர்களுக்கு எவ்வாறு பாத்தியப்பட்டது என்பதும், எவ்வளவு விஸ்தீரணம் பாத்தியதை என்பது குறித்தும் மேலும் மேற்படி புலத்தின் உரிமை குறித்தும் கேள்வி எழப்பெறுவதால், கயத்தார் கிராமம் புல எண் 209/3B2B-ல் மேற்கொள்ளப்பட்ட பட்டா மாறுதல்கள் மற்றும் உட்பிரிவு மாறுதல்கள் அனைத்தும் ரத்து செய்யப்பட்டு புல எண் 209/3B2B-ல் 2.34.5 ஹெக்டேரில் அரசு மாணவியர் விடுதி 0.40.5 ஹெக்டேர் நிலம் போக மீதமுள்ள 1.94.0 ஹெக்டேர் நிலத்தினை பழைய நிலையான நில உடைமை மேம்பாட்டுத்திட்டத்தின்படி ஆவுடையப்பிள்ளை மகன் மீனாட்சிநாத பிள்ளை பெயரில் பட்டா தாக்கல் செய்திட உத்தரவிடப்படுகிறது. சீராய்வு மனுதாரர்கள் மற்றும் சீராய்வு எதிர்மனுதாரர்கள் உரிமையியல் நீதிமன்றம் மூலம் தங்களது



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உரிமையினை நிலைநாட்டி உரிய பரிகாரம் தேடிக்கொள்ளவும்
உத்தரவிடப்படுகிறது.”

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7.The main ground urged by the learned Senior Counsel appearing on behalf of the petitioners is that the order of the first respondent does not carry any reason and the appeal itself has been rejected by passing a cryptic order. The learned Senior Counsel further submitted that if the first respondent is convinced that the dispute between the petitioners and the fourth respondent can be resolved only before the competent civil Court, there was no reason for the first respondent to direct the patta to be transferred in the name of the fourth respondent and thereafter, direct the parties to approach the competent civil court. The learned Senior Counsel submitted that the patta was granted in favour of the petitioners in the year 2012, whereas it was put to challenge by the fourth respondent after a period of three years in 2015 and this appeal was barred by limitation provided under Section 12 of the Patta Passbook Act r/w Rule 14 of the Tamil Nadu Patta Passbook Rules.

8.The learned Senior Counsel concluded his argument by submitting that the revenue authorities are not expected to go into the question of right and title over the properties and in the instant case, the revenue authorities after being convinced that the dispute between the parties can be resolved only



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before the competent civil Court, had proceeded to pass orders cancelling the patta issued in favour of the petitioners and directed to transfer the patta in the name of the fourth respondent.

9.This Court while issuing a writ of certiorari must keep in mind the latest judgment of the Apex Court in ***Central Council for Research in Ayurvedic Sciences & another vs. Bikartan Das & others*** reported in (2023) 5 ***MLJ 289***. The Apex Court had dealt with all the earlier judgments and given detailed guidelines as to when the writ of certiorari can be issued. One such guideline given by the Apex Court was that writ of certiorari can be issued to correct errors of jurisdiction. One such error of jurisdiction is where the authority has exercised the jurisdiction, which was not available or has failed to exercise the jurisdiction which is available.

10.In the instant case, the first respondent was convinced with the fact that the parties will have to go before the competent civil Court and that is the reason why, in the last portion of the order, the parties were directed to workout their remedy before the civil court. While coming to such conclusion, the first respondent has not assigned any reasons as to why the patta granted in favour of the petitioners was directed to be cancelled and in turn directed to be issued



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in favour of the fourth respondent. To arrive at this conclusion, the first respondent ought to have assigned reasons. The order passed by the first respondent is completely bereft of reasons and it suffers from illegality on that ground.

11.That apart, the first respondent has not properly exercised the jurisdiction and this is yet another ground for this Court to interfere with the order passed by the first respondent. The first respondent having recorded the stand taken by both the parties from page Nos.2 to 15 of the order, ought to have dealt with the same while passing final order and whereas the first respondent has passed an order bereft of any details and it has been extracted supra. It is true that the first respondent is not expected to pass an order like civil Court. However, the reasonableness of an order can be tested only with the reasons that are assigned in the order by the concerned authority and on a failure to assign any reasons, the order is liable to be interfered on that ground alone.

12.In view of the above discussion, this Court has no hesitation to interfere with the order passed by the first respondent through proceedings dated 01.12.2020 and hence, the same is hereby set aside. The matter is



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remanded back to the file of the first respondent. The first respondent is directed to issue notice to the petitioners and the fourth respondent and conduct enquiry and pass a reasoned order within a period of three months from the date of receipt of a copy of this order.

13.In the result, this writ petition is allowed with the above directions.

No costs. Consequently, connected miscellaneous petition is closed.

17.11.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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