



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.08.2015

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P(MD).No.11606 of 2015

and

M.P(MD)Nos.1 to 3 of 2015

Masanam Pillai,
President,
Vellalar Uravinmurai,
Peraiyur,
Madurai District.

... Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Thasildar,
Peraiyur Taluk,
Madurai District.

3.G.Krishnan,
President,
Maravar Uravinmurai,
Peraiyur,
Madurai District.

... Respondents

This Writ Petition has been filed under Article 226 constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating with the order, passed by the second respondent in Na.Ka.No.9338/2014/C5, dt. 22.07.2014 and quash the same as it is arbitrary and illegal and in consequence to direct the respondents 1 and 2 to restore the patta No.577 to the property, measuring 0.14.0 Ares, comprised in S.No.116/1 in Peraiyur 1st Bit, in Peraiyur Taluk in Madurai District, in the name of Vellalar Uravinmurai.

For petitioner	: Mr.R.Suriya Narayanan
For R-1 & R-2	: Mr.M.Murugan, Government Advocate
For R-3	: Mr.PT.S.Narandravasan

ORDER

The Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the second respondent in Na.Ka.No.9338/2014/C5, dt. 22.07.2014 and quash the same as it is arbitrary and illegal and to direct the respondents 1 and 2 to restore Patta No.577 to the property, measuring 0.14.0 Ares, comprised in S.No.116/1 in Peraiyur 1st Bit, in Peraiyur Taluk in Madurai District, in the name of Vellalar Uravinmurai.



2. Mr.M.Murugan, learned Government Advocate takes notice for the respondents 1 and 2 and Mr.PT.S.Narandravasan, learned counsel takes notice for the third respondent.

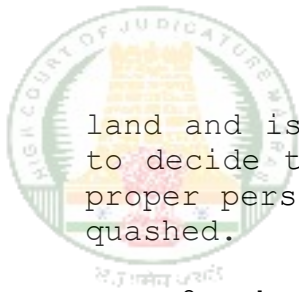
3. By consent, this Writ Petition itself is taken up for final disposal.

4. In the affidavit filed in support of the Writ Petition, it has been averred that the petitioner is the President of Vellalar Uravinmurai, Peraiyur, Madurai District and the said Uravinmurai had several lands and properties in Peraiyur and one of such properties is a vacant site measuring 0.14.0 Ares, comprised in S.No.116/1, in Peraiyur 1st bit and patta pass book has also been issued and in which all the properties of Uravinmurai are coming under patta No.577 in the name of Uravinmurai. During the first week of January, 2013, the petitioner and the other members of petitioner Uravinmurai, came to know that the third respondent illegally occupied a portion of a property by putting up an illegal construction and therefore, they asked him to remove the said encroachments made by him. While so, the third respondent made a representation, dated 23.02.2013, to the second respondent for change of patta in the name of Peraiyur Maravar Uravinmurai. But the second respondent without having jurisdiction, without issuing notice to the petitioner, purely on the basis of created records and the reports given by the Village Administrative Officer, the Revenue Inspector and the Deputy Tahsildar of Peraiyur Taluk, passed an order to change the entry of the revenue records, by his order in Na.Ka.No.9338/2014/C5, dated 22.07.2014 and the petitioner came to know about the said proceedings only on 11.11.2014 and when he took the copy of 'A' Register, in which, the name of the petitioner Uravinmurai was omitted and patta has been issued to the third respondent Uravinmurai. Thereafter, the petitioner applied for the said proceedings under R.T.I Act and now the present Writ Petition has been filed challenging the said impugned order.

5. The third respondent has also filed a detailed counter affidavit inter alia stating that in Peraiyur, there is no Vellalar Uravinmurai and the said Uravinmurai never had any land comprised in S.No.116/1 at Peraiyur, 1st bit. The third respondent Uravinmurai constructed several commercial shops abetting the main road 30 years back. The petitioner Uravinmurai has nothing to do with the property. A mere reading of the impugned order will certainly reveal that the order has not been arbitrarily passed by the second respondent. If the petitioner is aggrieved by the said order, he has to prefer an appeal before the Revenue Divisional Officer and thus, the third respondent prays for dismissal of the Writ Petition.

6. Though very many contentions have been raised by the petitioner as well as the third respondent, at the time of making submissions, the learned counsel for the petitioner submitted that the impugned order has been passed without issuing notice and giving a personal hearing to him and therefore, on this ground alone, the impugned order is liable to be quashed.

7. The learned counsel for the petitioner further submitted that the petitioner has submitted a petition to change the classification of the



land and issue a patta and the Tahsildar, is not the competent authority to decide the issue and it is the Revenue Divisional Officer, who is the proper person and on that ground also, the impugned order is liable to be quashed.

8. The learned counsel for the third respondent submitted that though no notice was issued to the petitioner before passing the order, the Tahsildar has passed the order by considering the report of the Revenue Inspector, Peraiyur dated 19.06.2014, the report of the Deputy Zonal Tahsildhar, Peraiyur, dated 14.07.2014 and other relevant documents and therefore, there is no need to set aside the order. The learned counsel further submitted that the petitioner has approached this Court belatedly (ie) after a period of one year from the date of the impugned order and therefore, on the ground of laches also, the Writ Petition is liable to be dismissed.

9. The learned Government Advocate admits that no notice was issued to the petitioner before passing the impugned order.

10. Irrespective of the submissions made on either side, this Court is of the opinion that since the impugned order was passed without issuing notice and affording opportunity to the petitioner, the impugned order is liable to be set aside on the ground of violation of principles of natural justice.

11. Accordingly, the Writ Petition is allowed and the order of the second respondent, dated 22.07.2014, is set aside. No Costs. The Revenue Divisional Officer, Usilampatti, is directed to conduct enquiry by affording opportunity of hearing to the petitioner and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Collector, Madurai District.

2.The Revenue Divisional Officer, Usilampatti.

3.The Thasildar, Peraiyur Taluk, Madurai District.

+1cc to The Special Government Pleader, Madurai. SR.No. 46357

+1cc to Mr.R.Suriya Narayanan, Advocate SR.No. 46061

+1cc to Mr.PT.S.Narandravan, Advocate SR.No. 45778

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