



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.01.2018
Delivered on : 01.02.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.19061 of 2014
and
MP(MD)Nos.1 of 2014 and 1 and 2 of 2015

M.Veeranan

... Petitioner

Vs.

1. The District Revenue Officer,
District Revenue Office,
Madurai District.
2. The Revenue Divisional Officer,
Usilampatti Division,
Madurai District.
3. The Tahsildar,
Usilampatti Taluk,
Madurai District.

4.S.Yagneswaran

... Respondents

Petition filed under Article 226 Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Mo.Mu.No.2507/2014/A2 dated 21.07.2014 on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to issue fresh patta to the petitioner's property in S.Nos.335/4, 335/7, 332/2 and 332/3.

For Petitioner : Mr.Ashwin Rajasimman
for Mr.T.Lajapathi Roy

For R1 to R3 : Mr.Aayiram K.Selvakumar
Additional Government Pleader

For R4 : Mr.AR.L.Sundaresan
Senior Counsel
for M/s.A.L.Ganthimathi

**ORDER**

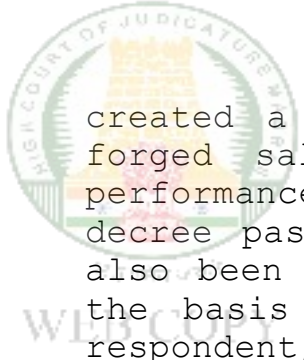
This writ petition has been filed, challenging the order passed by the second respondent, cancelling the patta stands in the name of the petitioner and directed to issue patta in the name of the original owner of the property viz., Senthilaathiban.

2.The case of the petitioner, in brief, is as follows:

(i)According to the petitioner, he became the owner of the property in Survey Nos.335/4, 335/7, 332/2 and 332/3, measuring to an extent of 2.56 acres, pursuant to a sale deed has been executed in his favour, in execution of a decree passed in a specific performance suit in O.S.No.12 of 2005 on the file of the District Munsif Court, Usilampatti. The above mentioned property was originally belonged to one Senthilaathiban, father of the fourth respondent and he entered into a sale agreement with the petitioner on 07.04.1998 after receiving part of sale consideration. Subsequently, the said Senthilaathiban died on 06.04.2005 and his legal heirs refused to execute a sale deed in favour of the petitioner. Hence, the petitioner has filed the above suit in O.S.No.12 of 2005 for specific performance, in which, an *ex parte* decree was passed in his favour. Thereafter, a sale deed was also executed in his favour through Court on 17.07.2009, since then, the petitioner is in possession and enjoyment of the property in question. Subsequently, the petitioner has sold 25 cents, out of total extent of 2.56 acres in favour of one Saravanan through a valid registered sale deed. Thereafter, the fourth respondent herein and the legal heirs of the deceased Senthilaathiban have filed I.A.No.291 of 2010 to set aside the *ex parte* decree passed in I.A.No.234 of 2006, on the file of the District Munsif Court, Usilampatti and the same was dismissed. Against which, they filed C.R.P(MD)No.2003 of 2011 on the file of this Court and the same is pending.

(ii)According to the petitioner, right from the execution of sale deed in his favour, he is in possession and enjoyment of the property, subsequently, the patta also transferred in his name. While so, the second respondent has passed the impugned order, cancelling the patta granted in favour of the petitioner and directed to restore the patta in the name of the deceased Senthilaathiban, without issuing any notice to the petitioner and also without conducting any enquiry whatsoever. In the above circumstances, the petitioner is before this Court with the above stated prayer.

3.The second respondent filed a counter affidavit stating that the legal heirs of the deceased Senthilaathiban has filed an application before the second respondent seeking to cancel the patta granted in favour of the petitioner on the ground that he has forged the signature of the deceased Senthilaathiban and



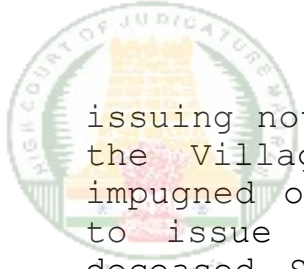
created a sale agreement in his favour and based on the above forged sale agreement, he filed the said suit for specific performance and obtained an *ex parte* decree and based on the decree passed in the specific performance suit, a sale deed has also been executed in favour of the petitioner. Subsequently, on the basis of the complaint given by the mother of the fourth respondent, a case has been registered in Crime No.109 of 2012 on the file of the Inspector of Police, District Crime Branch, Madurai District against the petitioner and after completion of investigation, charge sheet has been filed and the matter was taken on file in C.C.No.605 of 2014 on the file of the Mahila Sessions Judge, Madurai and the same is pending. In the meanwhile, fourth respondent and the legal heirs of the deceased Senthilaathiban have filed a CRP(MD)No.2003 of 2011 before this Court and the same is also pending. Further, based on the petition given by the legal heirs of the deceased Senthilaathiban, the second respondent has called for report from the Village Administrative Officer and Tahsildar. They have also filed report stating that only the legal heirs of the deceased Senthilaathiban are in possession and enjoyment of the property. In view of the pendency of criminal case against the petitioner and also pendency of the above said Civil Revision Petition before this Court, the second respondent cancelled the patta granted in favour of the petitioner.

4.The fourth respondent also contested that the petitioner has created a forged sale agreement as if his father has executed the same in his favour and by using the forged sale agreement, the petitioner has filed O.S.No.12 of 2005 and obtained an *ex parte* decree behind his back and based on the decree, a sale deed has also been executed in his favour by the Court. While so, the mother of the fourth respondent has given a complaint against the petitioner. Subsequently, charge sheet has been laid and the same was taken on file in C.C.No.605 of 2014 and is pending before the competent criminal Court. Against the said *ex parte* decree, the fourth respondent and others have filed an application before the trial Court, which also came to be dismissed. Challenging the same, Civil Revision Petition has been filed and the same is pending before this Court. Considering all these aspects, the second respondent has rightly cancelled the patta. Therefore, there is no illegality or infirmity in the order passed by the authorities below.

5.With the above pleadings, I have heard Mr.Ashwin Rajasimman, learned counsel appearing for the petitioner, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.AR.L.Sundaresan, learned Senior Counsel appearing for the fourth respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

6.From the perusal of the order passed by the second respondent, it could be seen that the second respondent without



issuing notice to the petitioner, based on the report submitted by the Village Administrative Officer and Tahsildar, passed the impugned order, deleting the name of the petitioner and directed to issue patta in the name of the original owner viz., the deceased Senthilaathiban and before passing the impugned order, admittedly, no notice was issued to the petitioner and no enquiry was conducted. Since by virtue of the impugned order, the patta granted in favour of the petitioner has been cancelled and the second respondent directed to issue patta in the name of the original owner. The opportunity to provide hearing before passing any adverse order is a basic requirement. Even in administrative actions where the decision of the authority which resulted in civil consequences, a fair opportunity of hearing is necessary. The second respondent, admittedly, without issuing notice to the petitioner and without conducting any enquiry whatsoever passed the impugned order. On that score alone, the impugned order is liable to be set aside and the matter is liable to be remitted to the second respondent.

7.It is relevant to refer the decision rendered by the Hon'ble Apex Court reported in (2015) 8 Supreme Court Cases 519 [Dharampal Satyapal Limited vs. Deputy Commissioner of Central Excise, Gauhati and others], wherein it is held as follows:

"28.It is on the aforesaid jurisprudential premise that the fundamental principles of natural justice, including audi alteram partem, have developed. It is for this reason that the courts have consistently insisted that such procedural fairness has to be adhered to before a decision is made and infraction thereof has led to the quashing of decisions taken. In many statutes, provisions are made ensuring that a notice is given to a person against whom an order is likely to be passed before a decision is made, but there may be instances where though an authority is vested with the powers to pass such orders, which affect the liberty or property of an individual but the statute may not contain a provision for prior hearing. But what is important to be noted is that the applicability of principles of natural justice is not dependent upon any statutory provision. The principle has to be mandatorily applied irrespective of the fact as to whether there is any such statutory provision or not.

.....

33.In the case of *Maneka Gandhi v. Union of India & Anr.*[13] also the application of principle of natural justice was extended to the administrative action of the State and its authorities. It is, thus, clear that before taking an action, service of notice and giving of hearing to the notice is required.



8. In view of the foregoing reasons and discussions, the impugned order passed by the second respondent on 21.07.2014 is set aside and the matter is remitted to second respondent. The second respondent is directed to conduct fresh enquiry after giving notice to the petitioner, the fourth respondent and other legal heirs of the deceased Senthilaathiban and pass orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. However, it is made clear that the second respondent is directed to decide the case on merits uninfluenced by the observations made in this order.

9. This writ petition is allowed. No costs. Consequently, MP(MD) Nos. 1 of 2014 and 1 and 2 of 2015 are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
District Revenue Office,
Madurai District.
2. The Revenue Divisional Officer,
Usilampatti Division,
Madurai District.
3. The Tahsildar,
Usilampatti Taluk,
Madurai District.

+ 1 cc TO Mr. T. Lajapathi Roy , Advocate in SR No. 45741
+ 1 cc TO M/s. A. L. Ganthimathi , Advocate in SR No. 45666

mj

AE/SV MMS/SAR4/20.02.2018/6C/5P

order made in
WP (MD) No. 19061 of 2014
(1/2)
01.02.2018