



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE **M.SATHYANARAYANAN**
and
THE HONOURABLE MRS.JUSTICE **R.HEMALATHA**

W.A(MD)No.1509 of 2017

AR.Alagar

.. Appellant/ Petitioner

Vs.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Revenue Divisional Officer,
Ramanathapuram District,
Ramanathapuram.
3. The Tahsildar,
Ramanathapuram District,
Ramanathapuram.

4.Rajendran

5.Kalimuthu

.. Respondents/ Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 21.12.2016, passed in W.P(MD)No.2440 of 2013 on the file of this Court.

Prayer in WP(MD). 2440/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ or order or in the nature of Writ of Certioraified Mandamus calling for the records of the respondents resulting in the 3rd respondent's impugned order dated 28.09.2012 passed in O.Mu.P4/12758/2012 and un-communicated order dated 05.02.1983 passed in Mu.Mu.1346/82 quash the same and consequently direct the respondents to cancel the patta issued in the name of 4th and 5th respondents in respect of the land in Survey No.28/13, Patta No.131 situated at Thiruthervalai Village, Anandur Post, Thiruvadanai Taluk, Ramanathapuram District by restoring the original status and

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ORDER TO CONDUCT A FRESH ENQUIRY BY AFFORDING ALL SORT OF OPPORTUNITIES TO THE PARTIES TO ESTABLISH THEIR RIGHT TO GET PATTAS



in respect of the petition land.

(Prayer amended as per order of this Court made in W.M.P (MD).No.3037 of 2016 dated 21.12.2016)

WEB COPY

For Appellant

: Mr.V.R.Venkatesan

For Respondents 1 to 3

: Mr.S.Satheesh Kumar,
Additional Government Pleader.

J U D G M E N T

[Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**]

The writ petitioner is the appellant. He made a challenge to the impugned order of the third respondent, dated 28.09.2012 and un-communicated order, dated 05.02.1983, with a consequential direction, directing to cancel the patta issued in the name of the respondents 4 and 5 in respect of the land, in Survey No.28/13, Patta No.131, situated at Thiruthervalai Village, Anandur Post, Thiruvadanai Taluk, Ramanathapuram District, by restoring the original status and thereafter to conduct a fresh enquiry, by affording all sort of opportunities to the parties, to establish their right to get patta, in respect of the petition land. The writ petition, after contest, came to be disposed of, on 07.11.2016. Challenging the legality and vires of the same, the petitioner came forward to file this writ appeal.

2.The facts leading to the filing of this writ appeal, as had been narrated in detail and in extenso in the order, which is the subject matter in the writ petition. Therefore, it is unnecessary to restate the same except to narrate the relevant facts, for the purpose of disposal of this writ appeal:

It is the specific claim of the petitioner that his father had purchased 81 cents of land in Survey No.28/13 [Patta No.131] situated at Thiruthervalai Village and immediately after the purchase, all the revenue records have been changed in his name. The father of the petitioner died in the year 1990. Thereafter, the petitioner had succeeded to his estate and however did not change the revenue records. However, during the month of November, 2012, the respondents 4 and 5 had trespassed into his land, claiming that the patta had been changed in their name and then only, he became aware of the fact that the patta has been changed in the name of the fourth respondent, without any notice and in this regard, he submitted a representation, dated 05.02.2012, to the respondents 1 and 2, for cancellation of patta and since it was not disposed of, he came forward to file this writ petition and during pendency of the writ petition, an order, dated 28.09.2012, was produced, informing the petitioner that ~~the order~~ ^{the order}, dated 05.02.1983, passed by the third respondent, patta has been cancelled.



3.The learned Single Judge, after taking note of the submissions and the materials placed, has taken note of the submission made on behalf of the respondents 1 to 3 that despite opportunity being given, the petitioner did not turn up. However, taking into consideration the submission made by the petitioner, directed the petitioner to appear before the second respondent and raise his objection along with the materials, to substantiate his claim and the second respondent, in turn, was directed to issue a fresh notice to the petitioner as well as the respondents 4 and 5 and conduct a fresh enquiry and after considering the rival claims, pass appropriate orders on merits and in accordance with law, within a stipulated time frame.

4.The learned counsel appearing for the appellant would submit that only at the time of hearing, on 07.11.2016, the appellant/writ petitioner became aware of the order, dated 28.09.2012, which in turn, based on the order of the third respondent, dated 05.02.1983 and since the concerned official respondents had taken a contra stand and further the patta has been transferred in favour of the respondents 4 and 5, without issuing any notice to him, prays for interference.

5.The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the learned Single Judge, while extracting the fact noted that despite requiring him to appear for an enquiry before the second respondent, the petitioner did not file any documents and based on the records only, orders came to be passed by the concerned Revenue Official and as such, the writ appeal lacks merit and deserves to be dismissed.

6.This Court has considered the rival submissions and perused the materials available on records.

7.The second respondent in the writ petition took a stand that the petitioner did not appear for enquiry and therefore based on the materials available, order came to be passed.

8.The specific case of the appellant/writ petitioner is that he became aware of the above said order, only on 07.11.2016. Therefore, atleast from the date of knowledge of the order, which is acting adverse to him, the petitioner ought to have moved the concerned authority under Section 12 of the Tamil Nadu Patta Pass Book Act, 1983 and however, he did not file the same. The learned Single Judge, on a sympathetic consideration, afforded liberty to the petitioner to appear before the second respondent and raise his objection along with the materials, to substantiate his claim, with a direction, directing the second respondent to issue fresh notice to the petitioner as well as to the respondents 4 and 5 and adjudicate the matter. In the considered opinion of this Court, the impugned order came to be passed based on equity, mainly on



the ground that the petitioner did not file the appeal within the time.

9. This Court, in an independent application of mind to the materials placed, is of the considered view that there is no infirmity or error apparent in the reasons assigned by the learned Single Judge, while disposing of the writ petition. This Court finds no merit in the writ appeal and therefore the same is dismissed, confirming the order, dated 21.12.2016, passed in W.P (MD) No. 2440 of 2013, by the learned Single Judge. No costs.

10. At this juncture, the learned counsel appearing for the appellant/writ petitioner prays for further time to submit a representation in pursuant to the liberty granted by the learned Single Judge and accordingly, the petitioner is directed to submit a fresh representation to the second respondent along with authenticated revenue documents, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the second respondent shall follow the directions given in the impugned order and pass appropriate orders, on merits and in accordance with law, within a further period of ten weeks and communicate the decision taken to the appellant/writ petitioner and the respondents 4 and 5.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District, Ramanathapuram.
2. The Revenue Divisional Officer,
Ramanathapuram District, Ramanathapuram.
3. The Tahsildar,
Ramanathapuram District, Ramanathapuram.

+ 1 cc TO Mr. V.R. Venkatesan, Advocate in SR No. 40190

smn

AE/SKN RSK/SAR4/22.01.2018/4P/5C