

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE : 05.03.2019

CORAM
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. NO. 4268 OF 2011
AND
M.P. NO. 2 OF 2011

1. T.Adhiram Prasad
2. T. Sunder Ram Prasad
3. B.Takur Prasad
4. Manjunath

.. Petitioners

- Vs -

1. The Tahsildar
Hosur, Krishnagiri District.
2. The District Revenue Officer
Hosur, Krishnagiri District.
3. N.Ramesh

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records relating to the impugned proceedings of the 2nd respondent dated 9.10.07 in Na. Ka. No.32861/07/J2 confirming the order of the 1st respondent dated 12.7.07 in Na. Ka. No.1286/07/C2 and quash the same.

For Petitioners: Mr. L.Chandrakumar, for
Mr. V.R.Shanmuganathan

For Respondents: Mr. J.Ramesh, AGP for RR-1 & 2
No Appearance for R-3

ORDER

The petitioners, being aggrieved by the orders passed by respondents 1 and 2 in ordering joint patta by adding the name of the 3rd respondent in respect of the subject property, are before this Court by filing the present writ petition.

2. According to the petitioners, their names were entered in the revenue records in respect of the property in S. No.293/3c of an extent of 1.44.0 Hec., in Belathur Vuillage, Hosur Taluk, Krishnagiri District . It appears that joint patta was issued by the 1st respondent vide proceedings dated 12.7.0, including the name of the 3rd respondent in the patta. The said

order was passed by the 1st respondent without ordering any notice to the petitioner and the entire order was passed behind the back of the petitioners.

3. Being aggrieved by the above order passed by the 1st respondent in granting joint patta, instead of separate patta in his name, with the regard to the subject property, appeal was filed before the 2nd respondent by the 3rd respondent. The 2nd respondent passed an order on 9.10.07 confirming the order passed by the 1st respondent. The petitioner, being aggrieved by the orders passed by respondents 1 and 2, are before this Court praying for quashment of the same.

4. Heard Mr.Chandrakumar, learned counsel appearing for the petitioners and Mr.J.Ramesh, learned Addl. Government Pleader appearing for respondents 1 and 2. Although notice has been served on the 3rd respondent and his name has been printed in the cause list, yet there is no representation for the 3rd respondent.

5. Not only a perusal of the records reveal, but it is also an admitted fact that the petitioners have not been heard before the orders came to be passed by respondents 1 and 2. When the 1st respondent passed an order granting joint patta, including the name of the 3rd respondent, in respect of the subject property, the 1st respondent ought to have issued notice to the petitioners. Unfortunately, the 1st respondent has not thought it fit to issue notice to the petitioners and, therefore, the order ultimately passed by the 1st respondent suffers from non-adherence to the established principles of natural justice. When adverse order of this nature is passed, the petitioners, whose names are found in the patta exclusively in respect of the property, have to be issued notice and they should be heard.

6. Further, the 2nd respondent, who confirmed the order passed by the 1st respondent, vide proceedings dated 12.7.07, has overlooked this crucial aspect that the petitioners were not issued any notice by the 1st respondent either. Therefore, the impugned proceedings of the 2nd respondent suffers from non-application of mind and, therefore, the proceedings of the 2nd respondent dated 9.10.07 in Na. Ka. No.32861/07/J2 confirming the order of the 1st respondent dated 12.7.07 in Na. Ka. No.1286/07/C2 is liable to be interfered with on this ground. Respondents 1 and 2 have not applied their mind while passing orders at the instance of the 3rd respondent by affording opportunity to the petitioners.

7. For the reasons aforesaid, this Court finds that per se the orders passed by respondents 1 and 2 are not sustainable in law and, therefore, the said orders deserve to be set aside. Accordingly, the writ petition is allowed and the orders passed

by the 2nd respondent dated 9.10.07 in Na. Ka. No.32861/07/J2 confirming the order of the 1st respondent dated 12.7.07 in Na. Ka. No.1286/07/C2 are hereby set aside. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Tahsildar
Hosur, Krishnagiri District.
2. The District Revenue Officer
Hosur, Krishnagiri District.

+1cc to the Government Pleader, S.R.No.22102

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PA (CO)

RRS (12/04/2019)



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