

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.27992 to 27994 of 2015

Abdul Munaff

S/o Abdul Hazeem

.. Petitioner in W.P.No.27992 of 2015

Sardar Hussain @ Abdul Rajak

S/o Abdul Malik

.. Petitioner in W.P.No.27993 of 2015

Jahangir

S/o Kaji Abdul Sahib

.. Petitioner in W.P.No.27994 of 2015

-vs-

1. Regional Deputy Tahsildar-I

Ullundurpet Taluk

Villupuram District

2. Syed Ahmed

Secretary

Hajle Sunnat Jamad Pallivasal

Melapalayam, Elavasurkottai

Ullundurpet Taluk

Villupuram District 607 202

... Respondents 1 & 2 in all the writ petitions

Petitions under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in order dated 06.05.2015 in Na.Ka.B2/4136/2010 on the file of the first respondent and quash the same as arbitrary, illegal, unreasonable and direct the respondent to restore the patta in the name of the petitioners.

For Petitioners

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Mr.A.Thiagarajan

Senior Counsel for

Mr.S.Ramesh Kumar

For Respondents

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Mr.V.Shanmugasundar

Special Government Pleader

for R1

Mr.I.Abrar Md.Abdullah for R2

ORDER

These writ petitions have been filed challenging the impugned order cancelling the patta granted in favour of the petitioners without giving any notice of hearing to the petitioners and thus violating the principles of natural justice.

2. Mr.A.Thiagarajan, learned Senior Counsel for the petitioners submitted that when the petitioners' ancestors were owning the land covered in Survey Nos.457/4B, Patta No.2108 and 457/9, Patta No.2110; Survey Nos.457/7, Patta No.2109 and 457/13, Patta No.2113; Survey Nos.457/8, Patta No.2113 and 457/14, Patta No.2112 respectively, the petitioners and their family members were enjoying the property without any encumbrance. Only after the demise of their father in the year 2014, a representation was given by the petitioners and other co-owners of the property to the Tahsildar, who after verification of the records transferred the patta in their name and other persons respectively. When the petitioners were issued with separate patta, surprisingly, it was transferred to the other respondents. The Regional Deputy Tahsildar-I, Ullundurpet, the first respondent in his order dated 6.5.2015 stated that the property bearing Survey No.457/4B having an extent of 0.08.0 cents in Patta No.2108 and in Survey No.457/9 in Patta No.2110; Survey No.457/7 having an extent of 0.17.0 cents in Patta No.2109; Survey No.457/8 having an extent of 0.45.0 cents in Patta No.2113 respectively, stood in the name of Basheer, Baba as if they are the sons of Hussain and it was also further stated in the impugned order that no document was submitted to prove that Mr.Abdul Ali, Mr.Shaik Adam and Mr.Nizamuddin respectively sold the property and citing the said reason, the first respondent cancelled the patta without even giving any chance to the petitioners to prove their ownership. Therefore, the impugned order is liable to be set aside.

3. The learned Special Government Pleader for the first respondent submitted that the order passed by the first respondent is appealable, hence, the petitioners should be directed to file an appeal against the said order.

4. Disagreeing with the said submission, it may be mentioned herein that when the petitioners have come to this Court taking a stand that the patta standing in the name of each of the petitioners has been cancelled without giving any notice or opportunity to explain their position, taking note of the fact that the issue is pending for four long years, relegating the

parties to the appellate authority would not serve any purpose and it would only cause further delay. Therefore, taking note of the fact that the impugned order has been passed behind the back of the petitioners violating the principles of natural justice, the impugned order is set aside and the matter is remitted back to the first respondent to consider the matter. The first respondent is directed to issue notice to both the petitioner and the second respondent and pass appropriate orders thereafter on merits. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. With this direction, the writ petitions stand disposed of. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Deputy Tahsildar-I
Ullundurpet Taluk
Villupuram District

+3cc to Mr.S.Ramesh Kumar, Advocate sr.85733

W.P.Nos.27992 to 27994 of 2015

pa(co)
nr 21/11/2019

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