



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.887 of 2011

and

M.P(MD)No.2 of 2011

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V.Ramu,
President of Ramanathapuram, Soorankottai,
Sakkaraikottai and Palangulam Vannar's
(washerman Community) Trust,
Pattanamkathan P.O.,
Ramanathapuram District.

... Petitioner

vs.

1.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

2.Malarvizhi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent in RDR No.1422/2010 dated 25.03.2010 and quash the same and issue patta in favour of the petitioner.

For Petitioner : Mr.H.Velvadhas

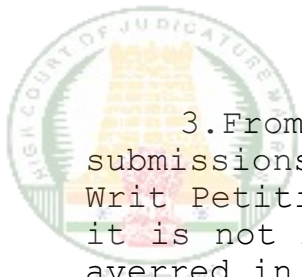
For R - 1 : Mr.K.Mu.Muthu,
Additional Government Pleader.

For R - 2 : No appearance

ORDER

Mr.H.Velvadhas, learned counsel on behalf of writ petitioner and Mr.K.Mu.Muthu, learned Additional Government Pleader on behalf of first respondent (official respondent) are before this Court.

2.To be noted, second respondent is a private respondent. The case file placed before this Court shows that second respondent has been duly served. This Court is informed that second respondent has not entered appearance through any counsel. Be that as it may, name of the second respondent is also duly shown in the cause-list. There is no representation for second respondent at the hearing, though the name of second respondent was called out aloud thrice in the court hall and in adjoining corridor.



3.From the case file placed before this Court and from the submissions made at the hearing, it emerges clearly that instant Writ Petition now turns on a extremely narrow compass and therefore, it is not necessary to dilate in detail about facts which have been averred in the affidavit filed in support of Writ Petition.

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4.Suffice to say that subject matter of instant Writ Petition is 'lands comprised in Survey Nos.56, 58, 61 and 59 in Ward No.C, Block No.22 of Ramanathapuram Taluk, Ramanathapuram District' (hereinafter referred to as 'said lands' for brevity).

5.It is the case of writ petitioner that said lands stand in the name of 'Vannar Trust' (hereinafter referred to as 'Vannar Trust' for brevity); that writ petitioner is the President of said Trust; that second respondent petitioned the first respondent for change of patta qua said lands and that first respondent passed an order 'dated 25.03.2010 bearing Reference R.D.R.No.1422/2010' (hereinafter referred to as 'impugned order' for brevity) changing patta qua said lands from the name of said Trust to that of second respondent without notice to said Trust.

6.Learned counsel for writ petitioner submits that said Trust is before this Court through its President. Learned counsel for writ petitioner adverts to chitta as it stood prior to the impugned order as well as Civil Court decree dated 26.02.1987 on the file of Sub Court, Ramanathapuram (to be noted Civil Court decree is also prior to impugned order) and submits that this would demonstrate that revenue records qua said lands stood in the name of said Trust prior to the impugned order.

7.Learned State Counsel submitted that impugned order has been passed on a petition from the second respondent based on the averments therein.

8.What is of significance is, there is no disputation or disagreement before this Court that impugned order has been passed without notice to writ petitioner.

9.Learned counsel for writ petitioner draws the attention of this Court to grounds 1 and 3 in the affidavit filed in support of writ petition which read as follows:

'1.The land Survey Nos.56, 58, 61 and 59 situated at Ramanathapuram Taluk, Ramanathapuram Town, Ward C, Block 22 which is belong to the Washerman Community Trust property wherein the petitioner's community people and others are residing.



3.The impugned order had cancelled our patta without giving any opportunity to the petitioner's Trust and therefore the impugned order is violative of principles of natural justice.'

10.Adverting to the aforesaid grounds, learned counsel for writ petitioner submits that there cannot be change of patta or change of entries in the patta without notice / without giving reasonable opportunity to the person in whose name patta stands. There is no difficulty in accepting the submissions. Therefore, without embarking upon the exercise of examining the matter on merits and without expressing any opinion on merits, impugned order is set aside on the short ground that it has been passed without notice to writ petitioner.

11.It is open to the first respondent to issue notice to writ petitioner, give reasonable opportunity to writ petitioner and thereafter pass orders. As the impugned order is set aside, revenue entries obviously stand rescinded to what it stood prior to the passing of the impugned order. Owing to this observation, it is not necessary to go into the second limb of writ petitioner's prayer which seeks a direction to the first respondent to issue patta in favour of writ petitioner. Instant Writ Petition stands partly allowed *inter alia* by setting aside the impugned order. Though obvious, it is made clear that it is open to the first respondent to redo the matter after putting on notice writ petitioner, second respondent / all concerned and after giving reasonable opportunity to them. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

Ps

To

The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District

+1 CC to M/s.GP (SR-95975[F] dated 04/11/2019)

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