



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

THE HONOURABLE **MR.JUSTICE M.SUNDAR**

W.P (MD) No.20078 of 2019

and

W.M.P (MD) .No.16612 of 2019

S.Ganesan

... Petitioner

/Vs./

1.The Revenue Divisional Officer,  
Tirunelveli.

2.The Tahsildar,  
V.K.Pudur Taluk,  
Tirunelveli.

3.M.Petchimuthu  
4.K.Shamugapandi

... Respondents

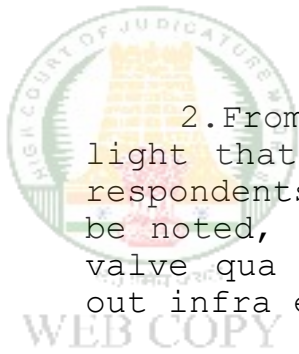
**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in Ni.Mu.A4/5495/2017 dated 16.02.2019 and quash the same and consequently restore the sub-division of survey number and separate patta No.3442 issued in favour of the petitioner.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.K.Mu.Muthu (for R1 & R2)  
Additional Government Pleader

**ORDER**

Mr.H.Arumugam, learned counsel on record for writ petitioner and Mr.K.Mu.Muthu, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 and 2 (official respondents) are before this Court. To be noted, respondents 3 and 4 are private respondents.



2.From the submissions made before this Court, it comes to light that an order, which does not adversely affect the rights of respondents 3 and 4 (private respondents), can be passed. Also to be noted, this order will contain sufficient safe guards and safety valve qua rights of respondents 3 and 4 and the same shall be set out infra elsewhere in this order.

3.In the aforesaid backdrop, main writ petition is taken up with consent of both sides, heard out and is being disposed of.

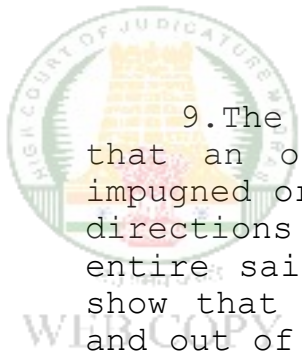
4.This writ petition has been filed assailing an order dated 16.02.2019 bearing 'reference No.ep.K.m4/5495/2017' (hereinafter referred to as 'impugned order' for the sake of brevity) made by the first respondent i.e.,Revenue Divisional Officer, Tirunelveli, whom this court is informed is the jurisdictional 'Revenue Divisional Officer' (hereinafter referred to as 'RDO' for the sake of brevity).

5.Though the impugned order does not mention the provision of law, under which it has been made, this Court is informed that the impugned order has been made under Section 12 of the Patta Passbook Act, 1983 (Tamil Nadu Act 4 of 1986) read with Rule 14 of the Rules thereunder being the 'Tamil Nadu Patta Passbook Rules, 1997' (hereinafter referred to as 'said Rules' for the sake of brevity).

6.Learned counsel for writ petitioner submits that the impugned order has directed sub-division of lands comprised in 'Survey No.539/2 in Uthumalai Village, Uthumalai Sub-Registration District, Thenkasi Registration District' (hereinafter referred to as 'said entire lands' for brevity); that the writ petitioner has purchased 36 cents of land from and out of the said entire lands from one Muthiah Pillai and 6 others under a registered sale deed dated 18.07.2011 registered as Doc No.1314 on the file of the jurisdictional Sub-Registrar; that the impugned order has been passed without notice to the writ petitioner; that therefore there is infraction of rights of the writ petitioner; that therefore, alternate remedy of an appeal to the District Revenue Officer (DRO) provided under said Act and said Rules is not efficacious; that there is violation of 'principles of natural justice' ('NJP' for brevity) as the impugned order has been passed without notice to the writ petitioner and obviously, without hearing the writ petitioner.

7.Learned State counsel advertng to the impugned order submitted that the impugned order came to be passed at the instance of the third respondent whose case is that he purchased 1 acre in the said land and that there has been some irregular sub-division.

8.Learned State counsel also submits that there has been no measurement, but this Court does not express any opinion on the merits of the matter or on the rival submissions, in the light of the order which this Court proposes to pass.



9.The short point on which the instant writ petition turns is that an order has been made by the first respondent i.e., the impugned order, wherein certain subdivisions have been cancelled and directions have been given for localizing Survey No.539/2, i.e., entire said lands. As the writ petitioner is able to *prima facie* show that the writ petitioner has purchased 36 cents of land from and out of said entire land under a registered sale deed, this Court is left with the considered view that the writ petitioner ought to have been put on notice and the writ petitioner ought to have been heard before the impugned order came to be passed. Writ petitioner's plea that he ought to have been heard is tenable. It is the case of the writ petitioner that they were not aware of the impugned order and they came to know about the impugned order only recently when he embarked upon the exercise of dealing with aforesaid 36 cents of land.

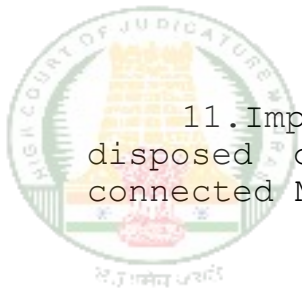
10.In the light of the narrative thus far, following order is passed :

(a)impugned order is set aside. It is made clear that impugned order is not set aside on merits but only on the ground of infarction of NJP and for the purpose of facilitating an opportunity of being heard being given to the writ petitioner. In other words, this Court has not expressed any opinion or view on the merits of the matter;

(b)first respondent is directed to issue fresh notice to the writ petitioner, all other persons whose names are shown in the sub-division order, which has been accepted vide order dated 02.04.2012 bearing reference No.Rtr456/12/8a97/1421/20-20 and more particularly, respondents 3 and 4 in the instant writ petition. To be noted, this is the safety mechanism/safety valve qua rights of respondents 3 and 4, which has been alluded to supra in the instant writ petition.

(c)After issuing notice to the writ petitioner and all other persons as has been directed supra, the first respondent is directed to commence enquiry afresh and pass orders afresh on merits of the submissions of the parties concerned, on the basis of the records and in accordance with law as expeditiously as possible and in any event within six months from the date of receipt of a copy of this order.

(d)The order made a fresh by the first respondent shall be communicated to the writ petitioner, respondents 3, 4 and all other parties to the proceedings under due acknowledgement within a fortnight from the date of the order.



11. Impugned order is set aside and this Writ Petition is disposed of with above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Cs-II)

// True Copy //

Sub Assistant Registrar (CS )

Rmk

To

1. The Revenue Divisional Officer,  
Tirunelveli.

2. The Tahsildar,  
V.K. Pudur Taluk,  
Tirunelveli.

+1 CC to M/s. H. ARUMUGAM, Advocate SR-87650.

+1 CC to M/s. SPL GP SR-87928

**Order made in**  
**W.P (MD) No. 20078 of 2019**

**Dated:**  
**18.09.2019**

CS (14.10.2019) 4P 5C