



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.21358 of 2019

and

W.M.P(MD)No.17999 of 2019

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V.Balasubramanian

... Petitioner

vs.

1.The Sub Collector / Revenue Divisional Officer,
Pattukottai, Thanjavur District.

2.The Tahsildar,
Peravurani Taluk,
Thanjavur District.

3.R.Saminathan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.2125/2019 dated 06.08.2019 and quash the same.

For Petitioner : Mr.K.Balasubramani
for Mr.S.Madhavan

For RR 1 & 2 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.

For R - 3 : Mr.M.P.Senthil

ORDER

Mr.K.Balasubramani, learned counsel representing Mr.S.Madhavan, counsel on record for writ petitioner, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader on behalf of respondents 1 and 2 (official respondents) and Mr.M.P.Senthil, learned counsel on behalf of third respondent (private respondent) are before this Court.

2.With consent of all three aforementioned learned counsel, main writ petition is taken up, heard out and is being disposed of.

3.Factual matrix in a nutshell or in other words essential facts imperative for appreciating this order were encapsulated in proceedings made on 04.10.2019 when instant Writ Petition was listed



in the admission board. Proceedings dated 04.10.2019 reads as follows:

'Mr.S.Madhavan, learned counsel on behalf of writ petitioner is before this Court.

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2. Order dated 06.08.2019 bearing reference Na.Ka.No.125/2019 made by Revenue Tahsildar shall hereinafter referred to as 'impugned order' for the sake of brevity. Though impugned order does not mention the provision of law under which it has been made, it is submitted that impugned order has been made under Section 10 of 'Tamil Nadu Patta Pass Book Act, 1983 (4 of 1986)' (hereinafter referred to as 'said Act' for the sake of brevity).

3. Against the order made by jurisdictional Revenue Tahsildar under Section 10 of said Act, a statutory appeal is available under Section 12 of said Act and this Court is informed that the statutory appeal lies to the jurisdictional 'Revenue Divisional Officer' ('RDO' for brevity).

4. Be that as it may, it is the case of writ petitioner that there is violation of 'principles of natural justice' ('NJP' for brevity) as according to writ petitioner he has not been put on notice though patta which has now been dealt with vide impugned order stands in his name and though he has given objections.

5. Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 & 2 (Official Respondents) seeks time to get instructions and revert to this Court.

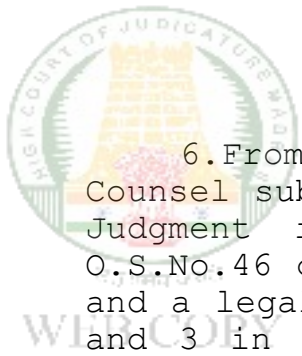
6. Notice to third respondent (private notice permitted) returnable by 25.10.2019.

7. Registry to show the name of the State Counsel and counsel for private respondent depending upon completion of service in the next listing.

8. List on **25.10.2019.**

4.To be noted, third respondent (private respondent) has since entered appearance and learned counsel for third respondent is before this Court. Asfar as State Counsel for respondents 1 and 2 (official respondents) is concerned, Deputy Tahsildar from the office of the second respondent is before this Court instructing learned State Counsel along with relevant records.

5.In the instant Writ Petition, an 'order dated 06.08.2019 bearing Reference Na.Ka.No.2125/2019 made by the second respondent' (hereinafter referred to as 'impugned order' for brevity) has been called in question.



6.From the relevant records and on instructions, learned State Counsel submits that impugned order has been passed on the basis of Judgment in a civil Suit being Judgment dated 27.03.2018 in O.S.No.46 of 2011 on the file of District Munsif Court, Pattukottai and a legal opinion dated 03.08.2019 which have been cited as Nos.2 and 3 in the reference (ghh;it) in the impugned order. In other words, there is no disputation that impugned order came to be passed without issuing notice (much less reasonable opportunity) to the writ petitioner.

7.As the impugned order affects the rights of writ petitioner, as joint patta has been directed to be issued in the name of third respondent along with his brother Viswanathan vide impugned order and as the patta prior to this order did show the name of writ petitioner, it is imperative that second respondent should have put writ petitioner on notice and given a reasonable opportunity to writ petitioner before passing impugned order. Therefore it follows as a sequitur that impugned order is liable to be set aside on the ground of violation of Principles of Natural Justice (NJP).

8.The following order is passed:

a) Impugned order being order dated 06.08.2019 bearing Na.Ka.No.2125/2019 made by the second respondent is set aside on the ground of violation of NJP. To be noted, impugned order is set aside solely on the ground that writ petitioner has not been put on notice / given reasonable opportunity before altering patta and therefore, this Court has not expressed any opinion or view on the merits of the matter.

b) The matter is sent back to the second respondent to redo the whole exercise after putting writ petitioner, third respondent, his brother Viswanathan and person / s having interest in this matter on notice and after giving reasonable opportunity to all the parties concerned and then pass orders.

c) The aforesaid exercise shall be completed by second respondent as expeditiously as possible and in any event within a period of eight weeks from the date of receipt of a copy of this order.

d) The order so passed by the second respondent shall be communicated to writ petitioner, third respondent and others concerned (if any) including third respondent's brother Viswanathan under due acknowledgement within seven working days from the date of order of second respondent.



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10. Instant Writ Petition is allowed with the above directions.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

ps
To

1. The Sub Collector / Revenue Divisional Officer,
Pattukottai, Thanjavur District.

2. The Tahsildar,
Peravurani Taluk,
Thanjavur District.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-95888[F] dated 04/11/2019)

+1 CC to M/s.SPL GP (SR-96065[F] dated 05/11/2019)

W.P (MD) No.21358 of 2019
04.11.2019

KK/SAR/12.11.2019/4P-5C/