



WEB COPY

W.P(MD)No.22449 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.10.2019**

CORAM:

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

W.P (MD) No. 22449 of 2019

and

W.M.P. (MD) No. 19229 and 19230 of 2019

Akbar Ali Ambalam

... Petitioner

Vs.

1. The District Collector,
Sivagangai District,
Sivagangai.

2. The District Revenue Officer,
Sivagangai District,
Sivagangai.

3. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

4. The Commissioner of Land Administration,
Ezhilagam, Chepuck,
Chennai-600 005.

5. The Special Tahsildar/
Special Officer,
G.R., Karaikudi,
Sivagangai District.

6. Mohammed Kasim

7. Kadar Maideen

8. Mohamed Mansoor

9. Mohammed Haroon

10. Muthumohammed

... 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 pertaining to the impugned G.R. Patta No. 57 issued by the 5th respondent in favour of 6th to 10th respondents and quash the same and consequently direct the 4th respondent to restore the patta No. 1379, 1381 pertaining to the lands in Survey No. 365/229 to the extent of 0.05.5 and survey No. 365/231 to the extent of 0.09.50 situated at Thiruppathur, Thiruppathur Taluk, Sivagangai District.



For Petitioner : Mr.S.A.Ajmal Khan

For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader
for R.1 to R.5

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ORDER

Mr.S.A.Ajmal Khan learned counsel on record for writ petitioner is before this Court.

2. Mr.Aayiram K.Selvakumar, learned Additional Government Pleader accepts notice on behalf of respondents 1 to 5 (official respondents).

3. To be noted, respondents 6 to 10 are private respondents. In the hearing, learned counsel for writ petitioner restricts his prayer to a plea of direction for disposal of representation within a time frame. From the abridged prayer, it comes to light that an order, which is not adverse to the rights of respondents 6 to 10 (private respondents) can be passed, after making sufficient and adequate safeguards in this regard which shall be set out *infra* elsewhere in this order. Therefore, with the consent of learned counsel on record for the writ petitioner and learned Additional Government Pleader, who accepts notice on behalf of respondents 1 to 5 (official respondents), main writ petition is taken up, heard out and is being disposed of.

4. The main writ petition now turns on a very narrow compass, as it is one seeking mandamus qua disposal of writ petitioner's representation dated 09.10.2019 wherein writ petitioner has complained that pattas which stood in the names of his ancestors have been transferred in the names of private respondents 6 to 10 without notice to the writ petitioner.

5. To be noted, under the normal circumstances, this Court would not issue a mandamus for a representation sent on 09.10.2019 in a writ petition filed on 21.10.2019 and listed in the admission board on 23.10.2019, but in the instant case, mandamus is issued in the peculiar facts and circumstances of this case, wherein *inter alia* transfer of patta without notice is alleged and imminent threat of alienation is averred.

6. Notwithstanding several averments/ grounds raised / contentions urged in the affidavit filed in support of instant writ petition, learned counsel for writ petitioner abridges the scope of instant writ petition / prayer in instant writ petition and submits that it will suffice if the third respondent is directed to dispose of the aforementioned representation of the writ petitioner dated



09.10.2019, details of which have been alluded to supra.

7.Learned State Counsel submitted that third respondent is the authority who is competent to consider the aforementioned representation dated 09.10.2019 made by the writ petitioner (page No.40 of the typed set of papers forming part of the case file).

8.The aforesaid representation dated 09.10.2019 shall be disposed of by the third respondent on its own merits and in accordance with law 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.

9. It is made clear that in the course of the representation being considered by the third respondent, if the right of any other third party / parties or any other third party entity / entities is / are likely to be affected, the third respondent shall put on notice and give reasonable opportunity to such third party / parties or third party entity / entities, before disposing of the aforementioned writ petitioner's representation. It is also made clear with specificity that respondents 6 to 10 have to be put on notice and given a reasonable opportunity by the third respondent before taking a decision. To be noted, this is the safeguard qua rights of respondents 6 to 10 alluded to supra.

10.Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter. Though obvious, it is also made clear that petitioner abridging the scope of instant writ petition and prayer will not tantamount to writ petitioner giving up the contentions raised in the writ petition. In other words, all contentions raised in the writ petition are left open.

11.The proceedings / order of disposal of aforementioned representation shall be communicated by the office of the third respondent to the writ petitioner and respondents 6 to 10 under due acknowledgement within seven working days from the date of proceedings / order ie., seven working days from date of disposal.

12.Instant Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

Sub Assistant Registrar(CS)

SSL

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
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4.The Commissioner of Land Administration,
Ezhilagam, Chepuck,
Chennai-600 005.

5.The Special Tahsildar/
Special Officer,
G.R., Karaikudi,
Sivagangai District.

+1CC TO MR.S.A.AJMAL KHAN, Advocate Sr. No.94093

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 94276

W.P(MD)No.22449 of 2019
23.10.2019

AVS(CO)

TR(24.10.2019) 4P 8C