



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.11.2019**

CORAM:

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

W.P (MD)No.24274 of 2019

WEB COPY

1.S.Rajendran
2.S.Chandrasekaran
3.S.Gnanasekaran
4.S.Mahamani
5.S.Govindasamy

... Petitioners

Vs.

1.The Revenue Divisional Officer,
O/o Revenue Divisional Office,
Collectorate Building,
Trichy.

2.The Tahsildar,
O/o Tahsildar,
West Taluk Office,
Trichy.

... 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 order in JP.Representation No.01/2019 on the file of the second respondent dated 04.07.2019 and quash the same as illegal and consequently seeking direction, directing the respondents to issue joint patta in the name of the petitioners in old survey Nos.1769, 1770, 1771, 1772 and 1768 in an extent of 1715 sq.feet, 290 sq.feet, 300 sqft, 412 sq.feet and 1717 sq.feet respectively in Mettu street, Woraiyur Post, Trichirapalli District which is renumbered as Town Survey No.134 wrongly classified as sarkar poramboke.

For Petitioner : Mr.M.Mahaboob Fazil

For Respondent : Mr.Aayiram K.Selvakumar
Additional Government Pleader



ORDER

Mr.M.Mahaboob Fazil, learned Counsel on record for writ petitioner and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, who accepts notice on behalf of both respondents are before this Court.

2. With consent of learned Counsel on both sides ie., learned Counsel for writ petitioner and learned State Counsel, main writ petition is taken up, heard out and is being disposed of.

3. Fulcrum of instant writ petition is a 'representation dated 11.06.2019' given by the petitioners (hereinafter 'said representation' for brevity), wherein according to writ petitioners' Counsel, writ petitioners have sought issue of joint patta. To be noted all five writ petitioners are legal heirs of one Late.Govindasamy.

4. Considering the nature of the matter, it may not be necessary to dilate further on facts pertaining to details of the property which is subject matter of said representation. Suffice to say that it is comprised in Town Survey No.134, Ward L, Thamalavaarupayam Village (தாமலவாரூபயம்), Trichy West Circle.

5. It is submitted without any disputation or disagreement that said representation was made under Section 10 of the 'Tamil Nadu Patta Pass Book Act, 1983 (Act 4 of 1986)' (hereinafter 'said Act' for brevity). Said representation met with a quick end having been disposed of by a cryptic 'order dated 04.07.2019 bearing reference JP.Representation No.01/2019 made by the second respondent' ('impugned order' for brevity). Impugned order reads as follows:



1F.000.0000.1/2019

மீ. பி.சி.சி. அழகவேல்
சிறை அமைச்சர், சென்னை.

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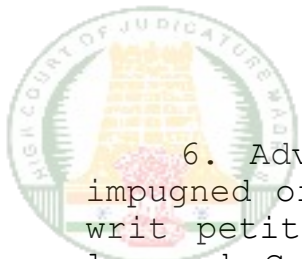
செய்தல்	மட்டிய மாற்று : திருச்செங்கோட்டிலிருந்து வேறு வாகன துறையாறுமாறு கிளம்பி நடை வார்டு-4, கோவை-4, நகர்ப்பகுதியில் 24-ம் போலீஸ் துறையைச் சேர்ந்து வரலாக கோவை காவலகத்திலேயே நேரமாக.
மர்சல்	1). பரந்தாரி திரு. ராஜேஸ்வரிசுமரத்தியாசெனேதாமரை தலைவரத்தினால் கைப்பற்றி மறு நடை : உட்கொடுப்பு 2). திருச்செங்கோட்டில் போலீஸ் நடை வார்டுமாரிக் காவலாக நடை : 3). கோவைமாரிய ஆலமாரென

[illegible]

செய்து
பாண்டிச்சேரி (ம) வட்டம் சமீபத்தில்,
த/மே மே 1994-ம் ஆண்டு,
51, சூல் 36ஆம் மாவட்ட
பகுதி

[Signature]
Date: 7-19
For: JILLIAN GORDON

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 $\frac{200}{100} = 2$



6. Adverting to the impugned order, it is submitted that the impugned order has been passed without giving an opportunity to the writ petitioners. In other words, it is the specific say of the learned Counsel for writ petitioners that there is violation of 'principles of natural justice' ('NJP' for brevity). Be that as it may, to buttress the submission regarding violation of NJP, learned Counsel for writ petitioner drew the attention of this Court to Section 10(3) (a) of said Act, which reads as follows:

'10.Modification of entries in the patta pass book:-

(1)

(2)

(3) (a) Before passing an order on an application under sub-section (1), the Tahsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the parties concerned to make their representations either orally or in writing. If the Tahsildar decides that any modification should be made in respect of entries in the patta pass book, he shall pass an order accordingly and shall make such consequential changes in the patta pass book, as appear to him to be necessary, for giving effect to his order.'

(Underlining made by this Court to supply emphasis and highlight).

7. This Court is informed that the prescribed procedure referred to in Section 10(3) (a) of said Act is contained in Rule 4 of the Rules under the said Act being the 'Tamil Nadu Patta Pass Book Rules 1987' (hereinafter 'said Rules' for brevity). To be noted, said Rules is a piece of subordinate legislation having been made by exercise of Rule making power under Section 22(1) of the said Act.

8. Most relevant part of Rule 4 is sub para (3) of the said Rules and the same reads as follows:

'4.Procedure on receipt of application or information:-

(1)

(2)

(3) On the prescribed date, the Tahsildar, shall conduct a summary enquiry. At the enquiry, on consideration of age, literacy and occupation, the Tahsildar may permit an authorised agent of the owner to appear on his behalf to supplement whatever the owner has to state orally or on his behalf to supplement whatever the owner has to state orally or in writing. No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry. There shall not be adjournment of the enquiry not more than twice and that adjournment

<https://hcservices.ecourts.gov.in/hcservices/> **shall be granted only on application made by the parties**



requesting for adjournment. Reasons for granting or refusing the adjournment shall be recorded by the Tahsildar in writing.'

9. Learned State Counsel, on instructions, submits that there is nothing on record to show that notice was issued to the writ petitioners much less is there anything to show any enquiry was conducted.

10. Therefore, without expressing any opinion on the merits of the matter, the impugned order is set aside on the lone and short ground of violation of NJP.

11. The second respondent is directed to take up said representation ie., representation dated 11.06.2019, re-do the matter by following the procedure adumbrated in Section 10(3)(a) of said Act read with Rule 4(3) of said Rules and pass orders 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. The order so passed by the second respondent shall be communicated to the writ petitioner and others concerned (if any), under due acknowledgment within seven (7) working days from the date of disposal.

12. Writ Petition is allowed with the above directives. There shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

SSL

To

1.The Revenue Divisional Officer,
O/o Revenue Divisional Office,
Collectorate Building, Trichy.

2.The Tahsildar,
O/o Tahsildar,
West Taluk Office, Trichy.

+1cc to MR.T.LAJAPATHI ROY, ADVOCATE, SR NO.99360

+1CC TO M/S.SPECIAL GOVERNMENT PLEADER, SR NO.99556

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KK/SAR/05.12.2019/5P-5C/