

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.3.2020

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.13786 of 2012 & MP.No.1 of 2012

T.P.Sadasivan

...Petitioner

Vs

1. The District Revenue Officer,
Erode District, Erode.
2. The Revenue Divisional Officer,
Erode, Erode District.
3. The Tahsildar, Erode Taluk Office,
Erode.

...Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents relating to the proceedings of the 1st respondent in proceeding Na.Ka.12137/10/A3Ni.A. Dated 31.1.2012, quash the same and consequently direct the 3rd Respondent to issue patta in the name of the Petitioner for his land in S.No.666/7 of Periya Semur Village, Erode Taluk and District.

For Petitioner : Mr.V.R.Appaswamee for
M/s.Muthumani Doraisami

For Respondents : Mrs.A.Madhumathi, SGP

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ORDER

I have heard Mr.V.R.Appaswamee, learned counsel appearing on behalf of M/s.Muthumani Doraisami, learned counsel on record for the petitioner and Mrs.A.Madhumathi, learned Special Government Pleader appearing for the respondents.

2. The petitioner has filed this writ petition challenging the proceedings of the first respondent dated 31.1.2012, in and

by which, the petitioner's claim for grant of patta in respect of the lands in question was rejected on the ground that it is a road.

3. The first and foremost ground raised by the petitioner is by contending that the impugned proceedings have been passed without issuing notice to the petitioner and without affording any opportunity.

4. The impugned order shows that there is no reference to any show cause notice issued to the petitioner prior to rejecting the petitioner's request for grant of patta. In the counter affidavit also, the first respondent does not state that a show cause notice was issued to the petitioner. The only ground raised in the counter is that the order was passed after conducting a field inspection and after ascertaining the facts by way of local enquiry and stating that the area has been marked as a 'pathai' (road), that the Periyasemur Municipality laid a road and that the Government would not spend its funds to any private work or for the benefit of any individual.

5. It is not clear as to whether the procedure required to be followed under the Tamil Nadu District Municipalities Act was adhered to prior to taking a decision to lay a thar road over the property in question. In any event, if the petitioner has a right over the property and if, according to him, he had kept a pathway as private passage, then, without following the procedure contemplated under law, the first respondent could not have rejected the petitioner's request for grant of patta and that too, without issuing any notice to the petitioner. Thus, for the above reasons, this Court is of the view that the impugned order is liable to be set aside on the ground that it is in violation of the principles of natural justice. Only on such a technical ground, this Court is inclined to interfere with the impugned order and not on the merits of the contentions advanced by the petitioner.

6. In the result, the writ petition is allowed, the impugned order is set aside and the first respondent is directed to issue a show cause notice to the petitioner within a period of 15 days from the date of receipt of a copy of this order. In the show cause notice to be issued, the first respondent shall clearly state as to how they termed the property in question as a public road and along with the show cause notice, the copies of inspection reports shall be enclosed and also the decision of the Periyasemur Municipality as to why they laid a thar road in the said property and as to whether the procedure under the Tamil Nadu District Municipalities Act was followed or not. The

petitioner shall be given 30 days' time to submit his reply, after which, the first respondent shall pass a speaking order on merits and in accordance with law. At the time of entertaining the above writ petition, an order of status quo has been granted on 30.5.2012, which remains in force till date. Hence, the order of status quo in respect of the property in question prevailing as on date (i.e. 02.3.2020) shall be maintained and shall abide by the orders to be passed by the first respondent in terms of the above directions. No costs. Consequently, the connected MP is closed.

Sd/-
Assistant Registrar(AD I)

//True Copy//

Sub Assistant Registrar

RS

To

- 1.The District Revenue Officer, Erode District, Erode.
- 2.The Revenue Divisional Officer, Erode, Erode District.
- 3.The Tahsildar, Erode Taluk Office, Erode.

+1cc to Mr.M/s. Muthumani Duraisami, Advocate, S.R.No.18589

+1cc to the Government Pleader, S.R.No.18737

WP.No.13786 of 2012
and MP.No.1 of 2012

CP(CO)
KKV/20/05/2020

सत्यमेव जयते

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