



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :05.08.2020

CORAM

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

**W.P. (MD) No.11571 of 2011
and
M.P. (MD) No.1 of 2011**

R.Muthusamy

...Petitioner

Vs

1.The District Revenue Officer,
Thanjavur.

2.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.

3.The Tahsildar,
Natham Settlement Scheme,
Kumbakonam,
Thanjavur.

4.Shiek Dawood

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to quash the order dated 10.08.2011

passed in Tha.Pa.No.3/2009/Oo 2 by the 1st respondent, confirming the order dated 22.08.2007 made in Me.Mu.Na.Thi.Pa.No.75/2007/A3 passed by the 2nd respondent.

For Petitioner : Mr.R.Vijayakumar
For R1 to R3 : Mr.M.Pandiarajan
Additional Government Pleader
For R4 : Mr.P.Thiagarajan

ORDER

Challenging the order dated 10.08.2011 passed in Tha.Pa.No.3/2009/Oo 2 by the 1st respondent, the present writ petition has been filed.



2. According to the petitioner, under the registered sale deed dated 03.11.2004, the petitioner had purchased the property in S.No.262/19, measuring to an extent of 0.14.0 ares ('C' schedule property under the Hiba deed) from one Jabarulla and also he is in possession and enjoyment of the same. However, one Abdul Azeez, Abdul Razak and Ameena Ammal filed an appeal in A.No.15 of 1999 before the 2nd respondent as against the vendor of the petitioner, namely, Shiekbooran, claiming patta to the aforesaid property and the same has also been dismissed for default on 22.06.2006.

3. Thereafter, the 4th respondent herein, who is the son of Abdul Azeez, had filed another appeal in A.No.75 of 2007, in which, the legal heirs of Shiekbooran only were shown as respondents, before the 2nd respondent and in the said appeal, no notice was served upon the petitioner, even though he purchased the said property in the year 2004 itself.

4. By allowing the said appeal, patta was granted to the aforesaid property in favour of the legal heirs of Abdul Azeez. Challenging the same, the petitioner has preferred a revision in R.P.No.3 of 2009 before the 1st respondent.

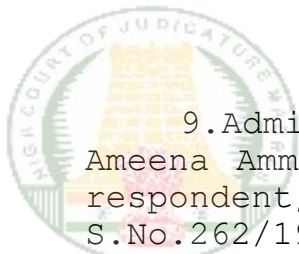
5. Pending revision, the petitioner filed an interlocutory application to call for the petition, counter and the order passed in A.No.15 of 1999 and the same has been reserved for orders by the 1st respondent on

24.02.2011. However, on 10.08.2011, the 1st respondent had passed the impugned order in R.P.No.3 of 2009 stating that the petitioner has not produced any relevant documents to substantiate his case. Challenging the same, the petitioner is before this Court.

6. The learned counsel appearing for the petitioner would submit that pending the said interlocutory application, without providing opportunity to the petitioner, the 1st respondent had passed the impugned order dated 10.08.2011 and that therefore, the same is liable to be quashed.

7. In reply, the learned counsel appearing for the 4th respondent would submit that in the said interlocutory application, the 1st respondent had served a notice to the petitioner to appear for enquiry and to place all the relevant documents on 18.02.2011. However, the petitioner did not appear for the same and that therefore, the final orders have been passed in the main revision. Therefore, the learned counsel would submit that the impugned order dated 10.08.2011 is perfectly proper and valid and also sufficient opportunities have been granted to the petitioner.

8. Heard the learned counsels on either side and perused the materials available on record.



9. Admittedly, though the said Abdul Azeez, Abdul Razak and Ameena Ammal had filed an appeal in A.No.15 of 1999 before the 2nd respondent, claiming patta in respect of the property in S.No.262/19, the same was dismissed for default on 22.06.2006. However, the 4th respondent had filed another appeal in A.No.75 of 2007 before the 2nd respondent and the same was allowed and patta was granted to the aforesaid property in favour of the legal heirs of Abdul Azeez. Challenging the same, though the petitioner has preferred a revision in R.P.No.3 of 2009 along with an interlocutory application before the 1st respondent, without providing sufficient opportunities to the petitioner to place the relevant documents to put forth his case, the 1st respondent had passed the impugned order. On this short ground, this Court has no hesitation to quash the impugned order dated 10.08.2011 and to remit the matter to the 1st respondent to consider the same afresh.

10. In the light of the above, this Court is inclined to pass the following directions:-

i) the impugned order dated 10.08.2011 passed by the 1st respondent is hereby quashed and the matter is remitted back to the 1st respondent to consider the same afresh and to pass appropriate orders on merits and in accordance with law, after affording opportunities to the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order;

ii) petitioner as well as the 4th respondent shall co-operate with enquiry;

11. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The District Revenue Officer,
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2. The Revenue Divisional Officer,
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3. The Tahsildar,
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+1 CC to The SPL GP (SR-13805[F] dated 07/08/2020)
+1 CC to Mr.R.VIJAYAKUMAR, Advocate (SR-13704[F] dated 06/08/2020)
+1 CC to Mr.P.THIYAGARAJAN, Advocate (SR-13760[F] dated 06/08/2020)

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CS (27.08.2020) 4P 7C