



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 5784 of 2020

and

W.M.P. (MD) No. 5053 of 2020

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G.Vetrivel

... Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Revenue Divisional Officer,
Madurai District.

3.The Tahsildar,
Madurai West Taluk,
Madurai District.

4.Madurai Nagamalai Pudukottai
NGGO Kudiyiruppu Hindu Nadar Uravinmurai,
Registration No.365 of 1993,
represented by its General Secretary,
Door No.6/182,
Theni Main Road,
Nagamalai Pudukottai,
Madurai 625 019.

5.N.Muruganantham

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned appeal petition dated 02.01.2020 and the enquiry notice dated 03.01.2020 in Na.Ka.No.142/2020/B issued by the second respondent and quash the same and consequentially forbear the respondents 1 to 3 from passing any order of mutation of revenue records in respect of the subject property in Survey No.126/1A, Nagamalai Pudukottai Village, Madurai West Taluk, Madurai District till the final disposal of the suit in O.S.No.355 of 2019 on the file of the Fourth Additional District Court, Madurai.

For Petitioner

: Mr.T.R.Jeyapalam

For R1 to R3

: Mr.S.Angappan
Government Advocate



O R D E R

Heard Mr. T.R. Jeyapalam, Learned Counsel for the Petitioner and Mr. S. Angappan, Learned Government Advocate for the First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. According to the Petitioner, he has instituted a suit in O.S. No. 355 of 2019 on the file of the IV Additional District Court, Madurai for declaration that Nadars of Nagamalai Pudukkottai are the owners of the property mentioned therein and for permanent injunction restraining the Fifth Respondent from interfering with their possession and enjoyment and that the Settlement-Deed dated 22.11.2010 executed in favour of the Fourth Respondent is null and void. The grievance sought to be ventilated by the Petitioner is that despite the pendency of the aforesaid suit the Second Respondent by notice in Na.Ka.No.142/2020/B dated 03.01.2020 on the appeal petition dated 02.01.2020 filed by the Fifth Respondent has fixed the enquiry at 4.00 p.m., on 20.01.2020 in contravention of Rule 4(4) of the Patta Passbook Rules, 1987, which reads as follows:

"(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records."

In that backdrop, this Writ Petition has been filed challenging the said notice for enquiry and to restrain the First to Fourth Respondents from mutating the revenue records in respect of the aforesaid claim made.

3. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in **Special Director -vs- Mohammed Ghulam Ghouse** [(2004) 3 SCC 440], **Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha** [(AIR 2012 SC 2250)] and **Life Insurance Corporation of India -vs- A. Masilamani** [(2013) 6 SCC 530], that a show cause notice cannot be challenged before completion of enquiry and the proceedings cannot be interfered with in the interregnum till it reaches its logical conclusion.

4. In the aforesaid circumstances, the Petitioner shall submit his explanation with supporting documents and comply with the requirements sought in that enquiry notice, and the First Respondent shall duly consider the explanation of the Petitioner and also according full opportunity of hearing to all parties



concerned, including the Petitioner and Fourth and Fifth Respondents, shall deal with each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate the decision taken under written acknowledgment. In the event of any adverse decision, it will be certainly open to the Petitioner to pursue appropriate legal remedies to challenge the same before the proper forum in the manner recognized by law.

5. As there is no justification to entertain the Writ Petition at this premature stage, it is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

akv/sj

To

1.The District Collector,
Madurai District.

2.The Revenue Divisional Officer,
Madurai District.

3.The Tahsildar,
Madurai West Taluk,
Madurai District.

+1 CC to MR.T.R.JEYAPALAM, Advocate (SR-12636[F] dated 20/03/2020)

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KM (29.05.2020) 3P 5C



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