



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 06.07.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P. (MD)No.7274 of 2020**

**and**

**W.M.P(MD)No.6723 of 2020**

**WEB COPY**

K.Thiraviam

... Petitioner

Vs.

1.The District Collector,  
Virudhunagar,  
Virudhunagar District.

2.The Tahsildar,  
Kariyapatti,  
Virudhunagar District.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.AA1/1741/2020 dated 15.06.2020 and set aside the same as illegal and consequently directing the second respondent to conduct enquiry and issue separate patta in the petitioner's name in Old Survey No.13/5 in joint Patta No.376 in Re-Survey No.13/5B1A to an extent of 12 cents, situated at Johilpatti Village, Kariyapatti Taluk, Virudhunagar District, on the basis of the petitioner's representation dated 17.03.2020 within a time frame fixed by this Court.

For Petitioner : Mr.J.Jeyakumaran

For Respondents: Mr.R.Sethuraman,  
Special Government Pleader.

**ORDER**

The petitioner has filed the present Writ Petition to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent dated 15.06.2020 and consequently directing the second respondent to conduct enquiry and issue separate patta in the petitioner's name in Old Survey No.13/5 in joint Patta No.376 in Re-Survey No.13/5B1A to an extent of 12 cents, situated at Johilpatti Village, Kariyapatti Taluk, Virudhunagar District, on the basis of the petitioner's representation dated 17.03.2020 within a time frame fixed by this Court.

2.Mr.R.Sethuraman, learned Special Government Pleader takes notice for the respondents.



3.By consent of both parties, the writ petition is taken up for final disposal at the stage of admission itself.

4.According to the learned counsel for the petitioner, the petitioner has challenged the impugned order for rejecting the grant of patta in favour of the petitioner based on the sale deed executed by the vendor of the petitioner dated 10.12.2019 in Document No.3418 of 2019. Further, according to the petitioner, the aforesaid order has been passed by the second respondent neither conducting any enquiry nor providing any opportunity to the petitioner.

5.Further, the learned counsel for the petitioner relying upon the provisions under Section 10(3) of the Tamil Nadu Patta Pass Book Act, 1983, has submitted that the respondents have violated the provisions of the Tamil Nadu Patta Pass Book Act, 1983 and therefore, the impugned order passed by the second respondent is liable to be quashed.

6.The learned Special Government Pleader submitted that in the sale deed executed by one Pushpam, vendor of the petitioner, the boundaries have not been specifically mentioned in the said document and therefore, the request of the petitioner was rightly rejected by the second respondent.

7.Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

8.The narrow scope of the present Writ Petition is whether any opportunity has been granted to the petitioner under Section 10 (3) of the Tamil Nadu Patta Pass Book Act, 1983. The learned counsel for the petitioner has also drew the attention of this Court to the provisions under Section 10(3) of the Tamil Nadu Patta Pass Book Act, 1983, which reads as follows:

*'10.Modification of entries in the Patta Pass Book-*

*.....*

*(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.*



(b) If the Tahsildar decides that there is no case for effecting any modification in the entries in the Patta Pass Book, he shall reject the application.

(c) An order under Clause (a) or Clause (b) shall contain the reasons for such order and shall be communicated to the parties concerned in such manner as may be prescribed.'

9. In view of the aforesaid provisions, the second respondent ought to have granted opportunity to the petitioner and if necessary, the second respondent ought to have issued notice to the petitioner and other interested parties, if any, to consider the relief as prayed for by the petitioner.

10. On this simple ground, this Court has come to the conclusion that the second respondent has not provided sufficient opportunity to the petitioner under the provisions of the aforesaid Act and therefore, the impugned order is liable to be set aside.

11. In view of the above stated facts and circumstances, this Court is inclined to quash the impugned order with the following directions:

(i) the impugned order dated 15.06.2020 is quashed.

(ii) the second respondent / the Tahsildar shall conduct enquiry and pass final orders under the provisions of the Tamil Nadu Patta Pass Book Act, 1983, after providing an opportunity to the petitioner, on merits and in accordance with law, as expeditiously as possible, within a period of twelve weeks from the date of receipt of a copy of this Court.

(iii) If necessary, the second respondent shall issue notice to any of the aggrieved parties or other interested parties.

12. The Writ Petition is allowed in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// 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.

Ps

To

1.The District Collector,  
Virudhunagar,  
Virudhunagar District.

2.The Tahsildar,  
Kariyapatti,  
Virudhunagar District.

Order made in  
W.P. (MD) No.7274 of 2020

Dated:  
06.07.2020

NR (10.07.2020) 4P 3C