



WEB COPY

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

**Dated 16.10.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN**

**W.P. (MD) No.14551 of 2020**

**and W.M.P. (MD) No.12211 of 2020**

**(Through Video Conferencing)**

VR.Subramanian

... Petitioner

Vs.

The Tahsildar,  
Karaikudi,  
Sivagangai District.

... Respondent

**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 relating to the impugned rejection order issued by the respondent in file no.2020/0154/23/000919 dated 08.10.2020 and quash the same and consequently direct the respondent to issue patta to the writ petitioner and his brothers for the plot Nos.8,9,45,46 and 47 situated Old T.S.No.429 part situated at Kurinchivayal, Karaikudi town, Pudukottai District now New T.S.No.1443/1 part situated at Kurinchivayal, Karaikudi Town, Sivagangai District within the time limit fixed by this Court.

For Petitioner : Mr.AL.Kannan

For Respondent : Mr.K.P.Krishnadoss  
Special Government Pleader

**O R D E R**

Challenging the order passed by the respondent dated 08.10.2020 and for a consequential direction to the respondent Tahsildar to issue patta to the petitioner as well as his brothers for the plot Nos.8,9,45,46 and 47 situated Old T.S.No.429 part situated at Kurinchivayal, Karaikudi town, Pudukottai District now New T.S.No.1443/1 part situated at Kurinchivayal, Karaikudi Town, Sivagangai District, the petitioner is before this Court with this writ petition.

2.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader, who takes notice for the respondent.

3.When the matter is taken up for hearing, the learned counsel for the petitioner would submit that without conducting any enquiry and without giving an opportunity of being heard to the petitioner,



the respondent Tahsildar has rejected the request of the petitioner for issuance of patta.

4.The learned Special Government Pleader would, however, submit that the land in question belongs to the Temple and that there is already a prohibitory order for transfer of patta and hence, the authority concerned has rightly rejected the request of the petitioner, taking note of the earlier instructions, dated 15.10.2003 and hence, no prejudice would be caused to the petitioner by the order of the Tahsildar and that the petitioner is trying to usurp the land belongs to the temple.

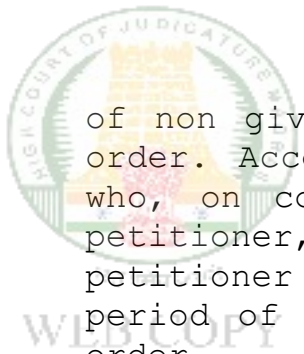
5.In reply, the learned counsel for the petitioner would submit that unless otherwise an opportunity is given, the authorities will not know the actual situation. Without considering the sale deeds, gift deeds, etc., and without considering the fact that the property was earlier mortgaged, the respondent has passed the impugned order and hence, the impugned order is liable to be interfered with, the learned counsel submitted.

6.When this Court posed a question as to why the petitioner has not approached the appellate authority, namely, the Revenue Divisional Officer under Section 12 of the Patta Passbook Act, 1983, as there is a provision in the said Act to the effect that as against the order of the Tahsildar, appeal will lie to the Revenue Divisional Officer and when Rule 4 of the Tamilnadu Patta Passbook Rules, 1987 has not been complied with, the learned counsel would submit that the petitioner wants only rehearing and that no prejudice is caused to anyone.

7. For the sake of convenience, Rule 4(3) of the Tamilnadu Patta Passbook Act is extracted hereunder:

*"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 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 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."*

8. It is mandatory on the part of the Tahsildar to give an opportunity of hearing before rejecting any order and on the ground



of non giving of opportunity, this Court interferes with the said order. Accordingly, the matter is remitted back to the Tahsildar, who, on considering the various documents to be produced by the petitioner, shall afford an opportunity of being heard to the petitioner and other parties concerned and take a decision within a period of four months from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

10. Before parting with this order, as early as on 1987, members of legislature were futuristic about our profession, as they are aware that practitioners, who practising in land reforms is not trustworthy, as could be seen from the sentence in Rule 4(3) of the said Act that, "..... No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry".

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

**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  
The Tahsildar,  
Karaikudi  
Sivagangai District.

+1 CC to M/s.GP ( SR-20551[F] dated 19/10/2020 )

Order made in  
**W.P. (MD) No.14551 of 2020**  
Dated: **16.10.2020**

SMV(CO)  
TR(09.11.2020) 3P 3C