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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.18542 OF 2009

1. Ramasamy Gounder (Deceased)
2. P.Panneerselvam
3. R.Perumayee
4. R.Senthil Kumar
5. R.Thiyagarajan
6. Kanagam
(P3 to P6 are substituted as LRs
of the deceased P1 as per order
dated 14.11.2019 made in WMP No.32162
of 2019 in W.P.No.18542 of 2009)

... Petitioners

.Vs.

1. The District Revenue Officer,
Villupuram District,
Villupuram.
2. The Revenue Divisional Officer,
Kallakurichi Taluk,
Kallakurichi,
Villupuram District.
3. The Tahsildar,
Kallakurichi Taluk,
Kallakurichi,
Villupuram.
4. Athiappan

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in the proceedings in Na.Ka.A.8/10383/2005 dated 28.02.2005 signed on 08.03.2005 and quash the same and consequently direct the respondents 1 to 3 to restore and confirm the patta granted in favour of the petitioners herein.



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For Petitioner : Mr.P.Dinesh Kumar
For Mr.Ramakrishnan

For R1 to R3 : Mr.Richardson Wilson
Government Advocate

For R4 : Mr.T.Sezhian
For M/s.R.Meenal

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in the proceedings in Na.Ka.A.8/10383/2005 dated 28.02.2005, signed on 08.03.2005 and quash the same and consequently, direct the respondents 1 to 3 to restore and confirm the patta granted in favour of the petitioners herein.

2. The deceased first petitioner and his brother Palanivel purchased the property comprised in S.No.575/2 to an extent of 11 cents, in S.No.574/5 to an extent of 0.03 cents, in S.No.574/6 to an extent of 0.03 cents, 574/7 to an extent of 0.03 cents and S.No.574/9 to an extent of 0.07 cents from one Ammaniammal and others by a sale deed dated 14.12.1970. In a portion of the said lands comprised in S.No.575/2 and 574/5, a cart track was laid from north to south to an extent of 20 links on the east west and 1358 links on the north south and they are in possession and enjoyment of the same. While being so, the fourth respondent herein is the owner of the western side of the above said lands of the petitioners. After sub-division, an unilateral patta was also granted in the name of the said Palanivel in respect of the cart track.

3. While being so, the fourth respondent, without right over the said property, attempted to interfere with the possession and enjoyment. Therefore, the second petitioner filed a suit in O.S.No.87 of 2005 on the file of the District Munsif Court, Kallakurichi and the same was decreed in his favour, by a judgment and decree dated 05.04.2011 for permanent injunction as against the fourth respondent/brother. While being so, the fourth respondent filed a revision before the first respondent herein challenging the issuance of patta in favour of the deceased first petitioner and father of the second petitioner herein.

4. The learned counsel for the petitioner would submit that the first respondent has no jurisdiction to entertain the petition submitted by the fourth respondent, challenging the patta issued in favour of the deceased first petitioner and the



father of the second petitioner. There were no notice and they were not heard by the first respondent before passing an impugned order and as such, it amounts to violation of the principles of natural justice.

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5. A perusal of the revision filed by the fourth respondent and the submissions made by the learned counsel for the respondents 1 to 3 reveals that the father of the second petitioner herein died as early as on 17.11.2001 itself, whereas, on filing of the petition before the first respondent, the first respondent called for report from the third respondent. Thereafter, it seems that the third respondent conducted an enquiry, in which the deceased first petitioner and the father of the second petitioner appeared and failed to produce any documents to substantiate the sub-division made in favour of them and also they refused to sign in the statement. It could not be possible that the father of the second petitioner was appeared before the third respondent and refused to sign in the statement, since he died as early as on 17.11.2001 itself.

6. That apart, though the impugned order marked to the deceased first petitioner herein and father of the second petitioner, there is no whisper about the issuance of notice to them and opportunity of hearing was given to them. Therefore, the impugned order has been passed without notice to the deceased first petitioner as well as the father of the second petitioner, who died already on 17.11.2001 itself. Admittedly, the second petitioner was also not issued any notice. Therefore, it is a clear violation of the principles of natural justice, on this ground, the impugned order shall go.

7. Insofar as the other grounds raised by the petitioner is that the first respondent has no jurisdiction to entertain the petition submitted by the fourth respondent as against the issuance of patta to the deceased first petitioner and the father of the second petitioner. Any order passed by the third respondent, against which an appeal remedy is available under Section 13 of the Patta Pass Book Act, the District Revenue Officer may of his own motion or on the application of the party, call for and examine the records of any Tahsildar or appellate authority within his jurisdiction in respect of any proceeding under the Act and pass such orders as he may think it fit.

8. Therefore, in the order of issuance of patta, the fourth respondent was very well before the first respondent. However, on the ground of violation of the principles of natural justice, the impugned order is liable to be quashed. However, the fourth respondent is at liberty to make a fresh appeal or revision



before the authorities concerned and on receipt of the same, the appellate authority or the revision authority is directed to issue notice and affording an opportunity of hearing and thereafter pass appropriate orders and in accordance with law.

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9. With the above directions, the Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Lpp

To

1. The District Revenue Officer,
Villupuram District,
Villupuram.
2. The Revenue Divisional Officer,
Kallakurichi Taluk,
Kallakurichi,
Villupuram District.
3. The Tahsildar,
Kallakurichi Taluk,
Kallakurichi,
Villupuram.

+1cc to M/s.R.Meenal, Advocate, S.R.No.38170
+1cc to Mr.P.Dinesh Kumar, Advocate, S.R.No.38981
+1cc to the Government Pleader, S.R.No.39451

W.P.NO.18542 OF 2009

PMK(CO)
PBS/07/10/2021