



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7353 of 2013
and M.P.Nos.1, 2 of 2013

- 1.Ramaswamy
- 2.Bannari Maheswaran
- 3.C.Marappan
- 4.Chenniappa Mudaliar

...Petitioners

Vs

- 1.The District Revenue Officer,
Collectorate,
Erode District.
- 2.The Revenue Divisional Officer,
Gobichettipalayam,
Erode District.
- 3.The Executive Officer,
Arulmigu Kondathu Kaliyamman Thirukoil,
Periyur, Gobichettipalayam.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Erode.
- 5.Thannier Pandangal Vinayagar Temple
& Mettu Mariamman Temple,
Rep. by its Thakkar,
Namakkal, Erode District.

- 6.Ramaswamy
- 7.Ramadurai

...Respondents

PRAYER:- Writ Petition is 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 and quash the same made in Na.Ka.No.25567/2012/F3 dated 12.12.2012 in respect of the land situated in Old Survey No.848, New S.No.1069/2, admeasuring 0.87.0 Hec. Old Survey No.878, New Survey No.1247/2, admeasuring 1.56.0 Hec. And Old Survey No.913, New S.No.1243 admeasuring 3.55.0 Hec. Totally 5.98.0 Hec. Or 14.78 Acres, covered under Patta No.2565, Nambiyur Village,



Erode District and consequently direct the 1st respondent to delete the name of "Thanner Pandayal Dharmam, Hindu, Religious Board" and consequently restore the petitioner's name in the patta.

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For Petitioners : Mr.P.R.Balasubramanian
For Respondents : Mr.Gokul Krishnan
1 to 4 Government Advocate

For Respondent 6 : Mr.P.Saravana Sowmiyan
R5, R6 - Notice served

O R D E R

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent and quash the same made in Na.Ka.No.25567/2012/F3 dated 12.12.2012 in respect of the land situated in Old Survey No.848, New S.No.1069/2, admeasuring 0.87.0 Hec. Old Survey No.878, New Survey No.1247/2, admeasuring 1.56.0 Hec. And Old Survey No.913, New S.No.1243 admeasuring 3.55.0 Hec. Totally 5.98.0 Hec. Or 14.78 Acres, covered under Patta No.2565, Nambiyur Village, Erode District and consequently direct the 1st respondent to delete the name of "Thanner Pandayal Dharmam, Hindu, Religious Board" and consequently restore the petitioner's name in the patta.

2. The case of the petitioners is that the land comprised in Survey Nos.1069/2, 1247/2 and 1243, corresponding Old Survey Nos.848, 878 and 913, admeasuring 0.87.0, 1.56.0 and 3.55.0 totally 5.98.0 Hectares, 14.70 acres covered under Patta No.2565 of Nambiyur Village, Gobichettipalayam Taluk, Erode District was originally covered under Minor Inam Abolition Act. The subject land was handed in favour of the petitioners' father for the purpose of Thanner Pandal Thirukoil. During the Minor Inam Abolition Act, the Special Tahsildar conducted enquiry and held that the property belongs to Thanner Pandal Thirukoil. However, the petitioners, who claimed themselves to be the trustees of Thanner Pandal Thirukoil were issued patta.

3. According to the 6th and 7th respondents herein, the petitioners subjected the said property for partition as if the said property belongs to them. Therefore, the fit person of the 5th respondent herein filed petition before the first respondent and the first respondent conducted enquiry under Section 147 of Cr.P.C. After enquiry, the first respondent cancelled the patta and issued patta in favour of the 5th respondent herein. It is relevant to extract under Section 147 of Cr.P.C.



4. Admittedly, the first respondent conducted enquiry under Section 147 of Cr.P.C with regard to the dispute concerning right of the use of land or water. In the said proceedings, the first respondent has no power to cancel the patta that stands in the name of the petitioners.

5. That apart, a perusal of the impugned order reveals only the petition submitted by the 5th respondent herein. The enquiry was conducted and subsequently, the impugned order was passed. No notice was served to the petitioners and no opportunity of hearing was given. Therefore, it clearly violates the principles of natural justice.

6. On this ground alone, the impugned order cannot be sustained and it is liable to be set aside. The matter is remitted back to first respondent for conducting fresh enquiry. In this regard, the first respondent is directed to issue fresh notice to all the parties concerned and after giving an opportunity of hearing, shall pass orders on merits and in accordance with law. The first respondent is directed to issue notice within a period of four weeks and thereafter pass orders within a period of twelve weeks.

7. Accordingly, this writ petition is allowed. Consequently, the connected miscellaneous petitions are closed. No order as to costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

- 1.The District Revenue Officer,
Collectorate,
Erode District.
- 2.The Revenue Divisional Officer,
Gobichettipalayam,
Erode District.
- 3.The Executive Officer,
Arulmigu Kondathu Kaliamman Thirukoil,
Periyur, Gobichettipalayam.



4.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Erode.

WEB COPY

5.Thannier Pandangal Vinayagar Temple
& Mettu Mariamman Temple,
Rep. by its Thakkar,
Namakkal, Erode District.

+1 CC to The Government Pleader sr 42415, 42291

+1 CC to Mr.P.R.Balasubramanian, Advocate sr 42491.

W.P.No.7353 of 2013
and M.P.Nos.1, 2 of 2013

BP(CO)
SP(17/09/2021)