



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.11.2021

PRONOUNCED ON : 29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD)Nos.13888 of 2013 and 1117 of 2015

and

M.P. (MD)Nos.1 of 2013, 1 of 2014 and 2 of 2015

WEB COPY

W.P. (MD)No.13888 of 2013:-

A.Kaleel Ansari

... Petitioner

vs.

1.The Tahsildar,
Karur Taluk, Karur.

2.M.Srinivasan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the proceedings of the first respondent bearing Na.Ka.A4/06983/2013, dated 04.07.2013 granting patta to the second respondent for the property comprised in T.S.No.2433, measuring to an extent of acre 0.81 cents situated in Ward No.1, Thanthoni Village, Karur Taluk and District and quash the same.

For Petitioner	:Mr.K.P.Narayanakumar for Mr.A.Balakrishnan
For R1	:Mr.D.Ghandiraj, Special Government Pleader
For R2	:Mr.S.Anand Chandrasekar for M/s.Sarvabhauman Associates

W.P. (MD)No.1117 of 2015:-

M.Srinivasan

... Petitioner

vs.

1.The Special Tahsildar,
Urban Land Tax Scheme, Karur.

2.Mohamed Ilias Ansari

3.Thahirunisa

4.Mohamed Yaqub Ansari

5.Badrunissa

6.Asraf Begum

7.Hidayatunissa

8.Sabirunissa

9.Mohamed Abid Hussain Ansari



10.Meharunissa
11.Ferozeunissa
12.Kaleel Ansari
13.Mubarakunissa
14.Jahangir Ansari
15.Razia Sulthana
16.Shajahan Ansari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent, dated 29.10.2014 in Pa.Ma.Petn.No.65 of 2014 and quash the same.

For Petitioner : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates
For R1 : Mr.D.Ghandiraj,
Special Government Pleader
For R2 to R16 : Mr.K.P.Narayanakumar
for Mr.A.Balakrishnan

COMMON ORDER

Since arguments were advanced in both the Writ Petitions and it was claimed that the property involved is also the same, a common order is passed.

2.Heard Mr.K.P.Narayanakumar, learned Counsel for Mr.A.Balakrishnan, learned Counsel for the petitioner in W.P(MD) No.13888 of 2013 and for the respondents 2 to 16 in W.P.(MD)No.1117 of 2015, Mr.S.Anand Chandrasekar, learned Counsel for M/s.Sarvabhauman Associates, for the petitioner in W.P.(MD)No.1117 of 2015 and for the second respondent in W.P(MD)No.13888 of 2013 and Mr.D.Ghandiraj, learned Special Government Pleader for the first respondent in both the Writ Petitions.

3.W.P.(MD)No.13888 of 2013 has been filed in the nature of Certiorari to quash the order, dated 04.07.2013 in Na.Ka.A4/06983/2013, granting patta to the second respondent with respect to the property in T.S.No.2433, measuring to an extent of acre 0.81 cents situated in Ward No.1, Thanthoni Village, Karur Taluk and District.

4.W.P.(MD)No.1117 of 2015, has also been filed in the nature of Certioari to call for the records of the order, dated 29.10.2014 passed by the first respondent in Pa.Ma.Petn.No.65 of 2014 and to quash the same.

5.As a matter of fact, the order complained in W.P.(MD)No.13888 of 2013 had been effectively nullified by the order impugned in W.P.(MD)No.1117 of 2015.



6.The facts are as follows:

6.1.Originally O.S.No.120 of 1989 was filed before the Principal District Munsif Court, Karur, by one Syed Abdul Majeed seeking declaration of title with respect to the property aforementioned. The suit was decreed on 19.06.1995. The uncle of the petitioner in W.P.(MD)No.13888 of 2013 filed A.S.No.124 of 1995 before the Subordinate Court, Karur.

6.2.Yet another suit in O.S.No.627 of 1992 had been filed for redemption of a mortgage with respect to the same suit property by the defendants in O.S.No.120 of 1989. This suit was also filed before the Principal District Munsif Court at Karur. That suit was dismissed and questioning that judgment, A.S.No.125 of 1995 was filed, again before the Subordinate Court, Karur. It must be mentioned that a common judgment had been passed in O.S.No.627 of 1992 and O.S.No.120 of 1989 by the learned Principal District Munsif, Karur.

6.3. A common judgment was also passed in A.S.Nos.124 and 125 of 1995 and both the appeals were allowed. This meant that the judgment in O.S.No.120 of 1989 and O.S.No.627 of 1992 were set aside.

6.4.Questioning the common judgment in the two first appeals, S.A.Nos.1628 and 1629 of 2000 had been filed before this Court and a learned Single Judge of this Court had dismissed both the appeals by judgment, dated 18.02.2019.

6.5.In effect, the suit for declaration of title was decreed and consequently, the Writ Petitioner in W.P.(MD)No.13888 of 2013 and the respondents 2 to 16th in W.P.(MD)No.1117 of 2015 were declared to be entitled for title of the disputed property.

6.6.While civil suits were pending, the first respondent in W.P.(MD)No.13888 of 2013, the Tahsildar, Karur Taluk, had passed an order granting patta to the second respondent in W.P.(MD)No.13888 of 2013. The second respondent traced titled from his fore-fathers and by way of relinquishment deeds executed in his favour by his father and his brothers and sisters. Challenging that grant of patta, W.P.(MD)No.13888 of 2013 had been filed.

6.7.After A.S.Nos.124 and 125 of 1995 had been allowed, that patta was cancelled and the first respondent in W.P.(MD)No.1117 of 2015, the Tahsildar, Urban Land Tax Scheme, Karur, granted patta in favour of the respondents 2 to 16 in the said Writ Petition. Claiming that the said order was passed without notice, the second respondent in W.P.(MD)No.13888 of 2013 had filed W.P.(MD)No.1117 of 2015.



7.It must also be stated that the impugned order has been further substantiated in view of the fact that S.A.Nos.1628 and 1629 of 2000 had also been dismissed. It is thus seen that the title of 2-16 respondents in W.P.(MD)No.1117 of 2015 had been upheld in S.A.Nos.1628 and 1629 of 2000 and therefore, it is claimed by Mr.K.P.Narayanakumar, learned Counsel that the order of the first respondent, namely, the Tahsildar, Urban Land Tax Scheme, Karur, need not be interfered with by this Court.

8.The only issue, which arises for consideration, is whether the said order has to be interfered with on the ground of violation of principles of natural justice, namely, for not issuing notice to the petitioner in W.P.(MD)No.1117 of 2015.

9.I am conscious that a reading of the above facts would be a little confusing, but, still let me narrow down the issue to further simpler terms. The order complained in W.P.(MD)No.13888 of 2013 had suffered a natural reversal by the order complained in W.P.(MD)No.1117 of 2015. Therefore, without much ado, I would hold that **W.P.(MD)No.13888 of 2013 should be dismissed**, but only because, the order had been interfered with by the Tahsildar, Urban Land Tax Scheme, Karur, which order had been questioned in W.P.(MD)No.1117 of 2015.

10.It is the contention of Mr.S.Anand Chandrasekar, learned Counsel for the petitioner in W.P.(MD)No.1117 of 2015 that the impugned order had been passed without due notice to the Writ Petitioner.

11.It is, however, the contention of Mr.K.P.Narayanakumar, learned Counsel for the respondents 2 to 16 in W.P.(MD)No.1117 of 2015 that the order has been passed pursuant to the recognition of title by the Civil Court, and therefore, till that judgment holds, the question whether notice should be issued or not, is insignificant and therefore, stated that the Writ Petition should be dismissed.

12.It has to be, therefore, examined whether issuance of notice would only be an useless formality, since the title of the respondents 2 to 16 has also been upheld in S.A.Nos.1628 and 1629 of 2000 by judgment, dated 18.02.2019, by this Court.

13.There are precedents wherein, it had been held that the principle of natural justice cannot be stretched to extreme limits when issue of notice would be an empty formality.

14.In **(2000) 7 SCC 529, Aligarh Muslim University and Others Vs. Mansoor Ali Khan**, the Hon'ble Supreme Court had an occasion to consider the effect of "useless formality" - a theory, which is an exemption to the principles of natural justice.



"21.As pointed recently in **M.C. Mehta Vs. Union of India (1999 (6) SCC 237)**, there can be certain situations in which an order passed in violation of natural justice need not be set aside under Article 226 of the Constitution of India. For example where no prejudice is caused to the person concerned, interference under Article 226 is not necessary. Similarly, if the quashing of the order which is in breach of natural justice is likely to result in revival of another order which is in itself illegal as in **Gadde Venkateswara Rao vs. Government of Andhra Pradesh [1966 (2) SCR 172 = AIR 1966 SC 828]**, it is not necessary to quash the order merely because of violation of principles of natural justice.

22.In **M.C.Mehta {1999} 6 SCC 237** it was pointed out that at one time, it was held in **Ridge vs. Baldwin (1964 AC 40)** that breach of principles of natural justice was in itself treated as prejudice and that no other 'defacto' prejudice needed to be proved. But, since then the rigour of the rule has been relaxed not only in England but also in our country. In **S.L. Kapoor Vs. Jagmohan (1980 (4) SCC 379)**, **Chinnappa Reddy, J. followed Ridge vs. Baldwin** and set aside the order of supersession of the New Delhi Metropolitan Committee rejecting the argument that there was no prejudice though notice was not given. The proceedings were quashed on the ground of violation of principles of natural justice. But even in that case certain exceptions were laid down to which we shall presently refer.

23.**Chinnappa Reddy, J. in S.L.Kapoor's case [(1980) 4 SCC 379]**, laid two exceptions (at p.395) namely, " if upon admitted or indisputable facts only one conclusion was possible", then in such a case, the principle that breach of natural justice was in itself prejudice, would not apply. In other words if no other conclusion was possible on admitted or indisputable facts, it is not necessary to quash the order which was passed in violation of natural justice. Of course, this being an exception, great care must be taken in applying this exception.

24.The principle that in addition to breach of natural justice, prejudice must also be proved has been developed in several cases. In **K.L.Tripathi Vs. State Bank of India (1984(1) SCC 43)**, **Sabyasachi Mukherji, J.** (as he then was) also laid down the principle that not mere violation of natural justice but de facto prejudice (other than non-issue of notice) had to be proved. It was observed: quoting *Wade Administrative Law*, (5th Ed.PP.472-475) as follows: (para 31)

"....it is not possible to lay down rigid rules as to when principles of natural justice are to apply, nor as



their scope and extentThere must have been some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the facts and circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter to be dealt with and so forth".

Since then, this Court has consistently applied the principle of prejudice in several cases. The above ruling and various other rulings taking the same view have been exhaustively referred to in *State Bank of Patiala Vs. S.K. Sharma* (1996(3) SCC 364). In that case, the principle of 'prejudice' has been further elaborated. The same principle has been reiterated again in *Rajendra Singh Vs. State of M.P.* (1996(5) SCC 460).

25.The 'useless formality' theory, it must be noted, is an exception. Apart from the class of cases of "admitted or indisputable facts leading only to one conclusion" referred to above,- there has been considerable debate of the application of that theory in other cases. The divergent views expressed in regard to this theory have been elaborately considered by this Court in **M.C. Mehta** referred to above. This Court surveyed the views expressed in various judgments in **England by Lord Reid, Lord Wilberforce, Lord Woolf, Lord Bingham, Megarry, J. and Straughton L.J.** etc. in various cases and also views expressed by leading writers like Profs. Garner, Craig, De. Smith, Wade, D.H. Clark etc. Some of them have said that orders passed in violation must always be quashed for otherwise the Court will be prejudging the issue. Some others have said, that there is no such absolute rule and prejudice must be shown. Yet, some others have applied via-media rules. We do not think it necessary, in this case to go deeper into these issues. In the ultimate analysis, it may depend on the facts of a particular case."

15.The same position had been reiterated in **2006 (8) SCC 647 [Punjab National Bank and Others]:**

"In an industrial dispute referred to by the Central Government which has an all-India implication, individual workman cannot be made parties to a reference. All of them are not expected to be heard. The Unions representing them were impleaded as parties. They were heard. Not only the said Unions were heard before the High Court, as noticed hereinbefore from a part of the judgment of the High Court, they had preferred appeals before this Court, Their contentions had been noticed by this Court. As the award was made in presence of the Unions, in our opinion, the



contention of Respondents that the award was not binding on them cannot be accepted. The principles of natural justice were also not required to be complied with as the same would have been an empty formality. The court will not insist on compliance of the principles of natural justice in view of the binding nature of the award. Their application would be limited to a situation where the factual position or legal implication arising thereunder is disputed and not where it is not in dispute or cannot be disputed. If only one conclusion is possible, a writ would not issue only because there was a violation of the principles of natural justice."

16.A Division Bench of this Court in a Judgement reported in **2006 4 LLN 358 [Dr.C.Chendroyaperumal Vs. National Institute of Port Management]** had also expressed their views on this aspect.

"9. Coming to the legal aspects canvassed by the learned counsel for the appellant, it is seen that they revolve around violation of the principles of natural justice. Even at the outset, we are not impressed with the said argument, since in our opinion, "Principles of natural justice is for thoroughbred horses and not wild horses." Wild horses understand only the language of the whip and hence there is no use trying to tame them with persuasion. The principles of natural justice themselves have traversed a long way from the stage at which they were treated as a "tharaka manthra" or panacea for all diseases, to the present stage where the Courts have started looking at the credentials of the person using them as a shield or sword and accepting the fact that they are not indispensable."

17.It has to be examined whether prejudice has been caused to the petitioner in W.P.(MD)No.1117 of 2015. The petitioner would necessarily have to get around the decree of the Civil Court, and till that is done, issuance of notice would only be an useless formality.

18.I hold that re-examining the issue, would only be dragging the parties to further litigation and the matter should rest at some point. The respondents 2 to 16 have got valid title owing to the judgment in S.A.Nos.1628 and 1629 of 2000. Pursuant to the earlier order in A.S.Nos.124 and 125 of 1995, the patta originally granted to the petitioner in W.P.(MD)No.1117 of 2015 had been interfered with.

19.Even if notice had been issued, the Writ Petitioner will have to get around the judgment of this Court in S.A.Nos.1628 and 1629 of 2000, dated 18.02.2019.



20.The Writ Petitioner, therefore, has to work out his remedy focussing on title rather than meandering around the issue of grant of patta, which is only incidental to recognition of title. But, as on date, as aforesaid even if notice had been issued, it could not have rescued the Writ Petitioner and the issuance of notice would have only been an useless formality, as the revenue authorities can never decide title.

21.I could, however, place a caveat that the Writ Petitioner may work out his remedy provided the law of limitation is in his favour. The issues left entirely to be decided, if at all any question of title is raised, in any civil forum. At the extreme, the Writ Petitioner could claim the benefit under Section 14 of Limitation Act for the period between 28.01.2015, when W.P.(MD) No.1117 of 2015 was first presented before this Court till this date, for having pursued *bona fide* before this Court, which could not enter into any discussion on title.

22.In the result, both W.P.(MD)Nos.13888 of 2013 and 1117 of 2015 are dismissed. No costs.

23.M.P.(MD)No.1 of 2014 has been filed seeking to implead a third party as a respondent in W.P.(MD)No.13888 of 2013. In view of the fact that the Writ Petition had been dismissed, nothing survives for adjudication in this petition. Hence, M.P.(MD)No.1 of 2014 in W.P.(MD)No.13888 of 2013 is dismissed.

24.Consequently, connected miscellaneous petitions in M.P.(MD) No.1 of 2013 and 2 of 2015 are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

1.The Tahsildar,
Karur Taluk,
Karur.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Special Tahsildar,
Urban Land Tax Scheme,
Karur.

+2 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-36355 & 36356[F]
dated 29/11/2021)

+1 CC to M/s.A. BALAKRISHNAN, Advocate (SR-36612[F] dated
30/11/2021)

+1 CC to M/s.SPL GP (SR-36707[F] dated 01/12/2021)

Order made in
W.P.(MD)Nos.13888 of 2013 and 1117 of 2015
29.11.2021

MA (CO)

GC (09.12.2021) 9P 7C