



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 23.02.2021

CORAM

THE HON'BLE MR. **JUSTICE V. PARTHIBAN**

W.P. (MD) No.3492 of 2021

and

W.M.P. (MD) Nos.2833 and 2835 of 2021

K.S.Mayilvahanan

... Petitioner

-vs-

1.The District Revenue Officer,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Melur Taluk,
Madurai.

3.The Tahsildar,
Melur Taluk,
Madurai.

4.The Deputy Tahsildar,
Melur Taluk,
Madurai.

5.K.Muthukumar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating the impugned order passed by the third respondent in his proceedings Na.Ka.No.6632/2020/A4, dated 29.01.2021 and the consequential impugned order passed by the first respondent in his proceedings Na.Ka.No.1331/2020/G1, dated 08.02.2021 and to quash the same as illegal, arbitrary and in violation of principles of natural justice and violation of Section 10 of the Tamil Nadu Patta Pass Book Act, 1983 and consequently, direct the second respondent to conduct enquiry relating to the restoration of the patta in Re-Survey No.332, Veppadapu Village, Melur Taluk, Madurai District in the name of the petitioner.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.M.Jeyakumar

1 to 4

Additional Government Pleader



ORDER

According to the petitioner, the landed property in re-survey No.332 to an extent of 9.4 acres in Veppadapu Village, Melur Taluk, Madurai District, originally belong to the fifth respondent. Subsequently, an extent of 9.4 acres was sold to the petitioner by an unregistered sale agreement dated 01.10.1992. Since then, the petitioner has been in possession of the said landed property.

2. According to the petitioner, several attempts have been made for registration of the sale deed in respect of the property and his attempts were not being fruitful, he filed a suit for specific performance through his power agent in O.S.No.107 of 2004 before the District Munsif Court, Melur. The fifth respondent also filed a suit in O.S.No.108 of 2004 before the same Court for permanent injunction. During the pendency of the suits, the petitioner was granted patta on the basis of possession of the property by proceedings of the fourth respondent dated 15.10.2009.

3. The suits filed both by the petitioner as well as fifth respondent were finally heard and the petitioner's suit in O.S.No.107 of 2004 was dismissed and the suit filed by the fifth respondent in O.S.No.108 of 2004 was allowed on 04.07.2016. Thereafter, it appeared that the patta granted in favour of the petitioner was cancelled by proceedings of the fourth respondent dated 11.12.2020 and a change of patta was effected in favour of the fifth respondent. According to the petitioner, the impugned transfer of patta was effected without hearing the petitioner.

4. As according to the petitioner, there was a violation of principles of natural justice, he approached the first respondent vide his representation dated 08.02.2021 complaining about the non-affording of opportunity to him before the patta was transferred in favour of the fifth respondent.

5. In response to the petitioner's representation, the first respondent has vide proceedings dated 08.02.2021 directed the second respondent to provide him an opportunity and then pass orders by reviewing his earlier order dated 11.12.2020. As against the said proceedings, the petitioner is before this Court.

6. This Court is unable to appreciate the challenge to the order passed by the first respondent as to how the petitioner could be said to have been aggrieved by order dated 08.02.2021 of the first respondent. In fact, the first respondent has accepted the grievance of the petitioner that he was not provided with proper opportunity by the second respondent and therefore, by the impugned proceedings dated 08.02.2021 directed the second respondent to provide full opportunity to the petitioner and review the order passed by him earlier.



7.This Court is unable to comprehend as to why the petitioner has chosen to challenge the proceedings which in fact in his favour of directing the Revenue Divisional Officer to re-do the entire exercise after giving the petitioner an opportunity. Instead of approaching the second respondent and raise his objections in regard to the change of patta in favour of the fifth respondent, the petitioner has needlessly and unnecessarily rushed to this Court by invoking the extraordinary jurisdiction of this Court. The present Writ Petition filed by the petitioner is totally uncalled for, as in the circumstances of the case, it could be seen that the matter is still pending consideration before the second respondent. Unless or until final orders are passed one way or other for and against the interest of the petitioner, there is no specific cause of action which could be the subject matter of entertaining of this Writ Petition.

8.This Court is of the view that this Writ Petition is thoroughly misconceived and cannot be entertained at all. It is open to the petitioner to participate in the proceedings before the second respondent on the basis of the remand by the first respondent and the petitioner can always wait for the final outcome in the proceedings pending before the second respondent.

9.For the above said reason, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

- 1.The District Revenue Officer,
Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
Melur Taluk,
Madurai.
- 3.The Tahsildar,
Melur Taluk,
Madurai.



4.The Deputy Tahsildar,
Melur Taluk,
Madurai.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-6842[F] dated 24/02/2021)

W.P. (MD) No.3492 of 2021
23.02.2021

TP (CO)
TR (09.04.2021) 4P 6C