



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) No.5120 of 2019

and

W.M.P. (MD) No.4085 of 2019

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1.Rajathi
2.Saraswathi

... Petitioners

-vs-

1.The Revenue Divisional Officer
Madurai District

2.The Thasildar
Madurai West Taluk
Madurai District

3.The Inspector of Police
Nagamalai Pudukottai
Madurai

4.A.P.Kandhasamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for records of the first respondent dated 07.02.2019 in proceedings Ne.Mu.No.272/2017/M, quash the same as the same is arbitrary, ultravires in violation principles of natural justice and audi alteram partem and consequently direct the first respondent to restore the pattas in the 1st petitioner's name and in the name of the second petitioner in respect of the properties comprised in S.Nos.46/22, 46/23 to an extent of 0.01.0 Ares, 0.00.9 Ares respectively, Thuvariman Village, Madurai.

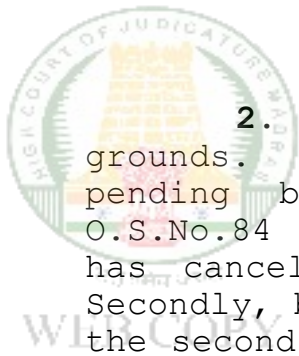
For Petitioners : Mr.R.G.Shankar Ganesh

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor for R1 to R3
Mr.V.Thirumal for R4

O R D E R

This writ petition is filed seeking a writ of certiorarified mandamus to quash the proceedings of the first respondent, dated 07.02.2019, wherein the first respondent, as an Executive Magistrate in his proceedings initiated under Section 145 Cr.P.C., has cancelled the Patta issued to the petitioners herein in the year 2010, based on the enquiry conducted by him.



2. The said order dated 07.02.2019 is challenged on two grounds. Firstly, when a suit regarding title to the property is pending before the District Munsif Court, Thirumangalam, in O.S.No.84 of 2017, the first respondent exceeding his jurisdiction has cancelled the Patta duly issued to the petitioners herein. Secondly, before passing the impugned order, no notice was issued to the second petitioner Saraswathi to put forth her case. Therefore, on the grounds of excessive exercise of jurisdiction and violation of principles of natural justice, this writ petition is filed to quash the proceedings of the first respondent, dated 07.02.2019.

3. The learned counsel appearing for the fourth respondent would submit that pursuant to the F.I.R. in Crime No.4 of 2017, on the file of Nagamalai Pudukottai Police Station, the Police have referred the matter to the first respondent to conduct enquiry under Section 145 Cr.P.C. Accordingly, after affording adequate opportunity and hearing the parties, perusing the records and conducting spot inspection, the first respondent has come to the right conclusion that the lands comprised in Survey Nos.46/1, measuring an extent of 7.14.0 Hectares and 46/2, measuring an extent of 0.06.0 Hectares, are in the possession and enjoyment of the fourth respondent for a long time and whereas, in the year 2010, in connivance with the President of the Village Panchayat, the lands were sub-divided and Natham Patta has been assigned to thirteen persons, who are all close relatives of the said President and therefore, issuance of Patta to those thirteen persons obtained in connivance with the President of the Village Panchayat, is liable to be cancelled and accordingly, the same was cancelled. Since the impugned order was passed, after due enquiry, the same is legally sustainable.

4. This writ petition is liable to be allowed on a short point that the first respondent, though, competent to cancel the Patta, on a different capacity cannot do that while exercising power under Section 145 Cr.P.C., as an Executive Magistrate. The power, scope and ambit of Section 145 Cr.P.C., is very limited, more so, when the suit regarding title to the property is already pending before the competent, the parties ought to have been directed to workout their remedy regarding title to the property before the Civil Court. However, the observation of the first respondent regarding possession of the property is concerned, the same is well within his competency and the same is left undisturbed.

5. As a result, while confirming the order of the first respondent, dated 07.02.2019, regarding possession of the property by the fourth respondent, the later part of the impugned order cancelling the Patta granted in favour of the petitioners is hereby set aside.



6. The order passed in this writ petition, noway be taken as a seal of approval to the grant of Patta to the petitioners. It is always open to the fourth respondent to approach the competent Revenue Authority challenging the order granting Patta in favour of the petitioners and others in the year 2010.

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7. Accordingly, the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

krk

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:

1.The Revenue Divisional Officer,
Madurai District.

2.The Thasildar,
Madurai West Taluk,
Madurai District.

3.The Inspector of Police,
Nagamalai Pudukottai,
Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.V.THIRUMAL, Advocate (SR-38796[F] dated 15/12/2021)

W.P. (MD) No.5120 of 2019

and

W.M.P. (MD) No.4085 of 2019

15.12.2021

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