



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.13235 of 2021

and

WMP (MD)Nos.10230 and 10231 of 2021

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Nagarajan

... Petitioner

vs.

1)The District Collector,
Office of the District Collector,
Dindigul.

2)The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Dindigul District.

3)The Tahsildar,
Office of the Taluk Office,
Kodaikkanal,
Dindigul District.

4)The Assistant Land Survey & Settlement Officer, (South),
Office of the Asst.Land Survey & Settlement Office, (South),
Chennai-5. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 2nd respondent in his proceedings Na.Ka.No.701/2019/A2 dated 10.12.2019 in so far as Serial No.4 in the annexure and quash the same and consequently directing the respondents to restore the name of the petitioner in the patta within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.B.Jameel Arasu
For Respondents : Mr.R.Suresh Kumar,
Government Advocate

ORDER

The petitioner has filed this writ petition for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 2nd respondent in his proceedings Na.Ka.No.701/2019/A2 dated 10.12.2019 in so far as Serial No.4 in the annexure and quash the same and consequently direct the respondents to restore the name of the petitioner in the patta



within the time stipulated by this Court.

2.The learned counsel for the petitioner would state that the petitioner is the absolute owner of the property comprised in old Survey No.90/5 B and in new T.S.No.21/2 of an extent of 1 A 06 ares situated at Ward B, Block No.2, Kodaikanal Taluk, Dindigul District and he has been in peaceful possession and enjoyment of the said property for the past 27 years.

3.The learned counsel for the petitioner would further state that though a patta was issued in favour of the petitioner, his name was not entered in respect of the abovesaid property in the revenue records and there was no reason assigned for non entry of the petitioner's name in respect of the abovesaid survey number in pursuance of the DKT patta granted in his favour since 1984. Therefore, the petitioner made representations to the respondents to make necessary entry in the DKT patta in the light of the Circular issued by the Commissioner of Land Survey & Settlement Office dated 29.04.1991 vide proceedings in Na.Ka.No.12970/90-E3. Based on the above representation, an enquiry notice dated 26.12.2011 was issued vide proceedings in Na.Ka.No.A1/13117/2011, whereby the petitioner was directed to appear before him with necessary documents on 11.01.2012 and accordingly, the petitioner appeared before the enquiry officer and after perusing all the documents produced by the petitioner, the 4th respondent has issued proceedings in Mu.Mu.No.13117/2011/(A1) dated 13.03.2012, whereby, the 3rd respondent/Tahsildar was directed to make necessary entry of the petitioner's name in the abovesaid survey number 90/5 B and in new T.S.No.21/2 of an extent of 1 A 06 ares situated at Ward B, Block No.2, Kodaikkanal Taluk, Dindigul District, and to issue necessary patta more particularly in the petitioner's name.

4.He would further state that in spite of the orders being passed by the 4th respondent, the 3rd respondent Tahsildar did not take any action and thereafter the petitioner sent many representations to the respondents to take necessary action to comply with the said order and based on the said representations, the 1st respondent issued proceedings dated 16.04.2012, whereby a direction was given to the 3rdrespondent Tahsildar to take immediate action. Only thereafter, the petitioner's name was included in the revenue records and patta was issued in patta No.311 pertaining to T.S.No.21/3. Thus, the petitioner has become the absolute owner of the abovesaid property. While so, the 2nd respondent/Revenue Divisional Officer, Kodaikkanal, has issued the impugned proceedings in Na.Ka.No.701/2019/A2 dated 10.12.2019 whereby he has unilaterally cancelled the patta bearing No.311 in respect of T.S.No.21/3 without following any due process of law morefully no notice was issued and no enquiry was held and therefore the petitioner has come forward with the present writ petition challenging the above order on the ground of violation of the principles of natural justice.



5.Heard the learned counsel for the petitioner as well as the respondents.

6.Perusal of the impugned order shows that no notice has been given to the petitioner and therefore, on the ground of violation of the principles of natural justice and considering the facts and circumstances of the case and considering that the petitioner was not given opportunity before passing the above impugned order, I am inclined to interfere with the impugned order.

7.Accordingly, the impugned order issued by the 2nd respondent in his proceedings Na.Ka.No.701/2019/A2 dated 10.12.2019, is set aside in respect of the petitioner alone and the matter is remanded back to the authorities to pass fresh order after giving opportunity to the petitioner and also after affording opportunity of personal hearing to the petitioner. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of the order.

8.The Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl)

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/ /2021

Sub Assistant Registrar(CS)

bala/tm

To

1)The District Collector,
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Office of the Asst.Land Survey & Settlement Office, (South),



+1 CC to M/s.GP (SR-24921[F] dated 02/08/2021)

W.P(MD)No.13235 of 2021

DATED : 30.07.2021

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SJ (CO)

LR (06.08.2021) 4P 6C