



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.18400 of 2020

and

W.M.P. (MD)Nos.15393 & 15395 of 2020

Mahalakshmi Prasad : Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Kodaikanal,
Dindigul District.

3.The Tahsildar,
Kodaikanal Taluk,
Dindigul District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned order made by the 2nd respondent in Na.Ka.No.701-63/2019/A2, dated 20.09.2019 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

ORDER

The petitioner is a Doctor by profession and she was gifted with a property in Town Survey No.11/2A, Ward C, Block 4, Kodaikanal Taluk, Dindigul District, admeasuring to an extent of 0.12.0 ares. The property belonged to her grandfather, G.Bhagwati Prasad and he had, in fact, gifted the property in petitioner's favour by a registered settlement deed dated 10.10.2003. After the settlement, the petitioner has been in continuous possession and enjoyment of the property, as on date.



2. After the settlement was effected, the petitioner was also issued with a patta in respect of the land by changing the revenue entries. While matter stood thus, the second respondent is said to have passed an order dated 20.09.2019 cancelling the patta granted in petitioner's favour and while cancelling the patta, no notice was issued to the petitioner. According to the petitioner, the cancellation of patta had come to her knowledge only when she went to the municipal authorities for payment of tax. Thereafter, she approached the authority concerned under the Right to Information Act and only on such efforts being taken by the petitioner, she was furnished with the copy of the order of cancellation dated 20.09.2019, which is impugned in this writ petition.

3. The grievance of the petitioner herein, among other things, is that the third respondent is stated to have submitted a report on 04.06.2019 that the patta has been wrongly given and on the basis of the same, the second respondent had pasted in the notice board for cancellation in the Village Administrative Officer's office at Kodaikanal and Vilpatti and in the local taluk office. It was stated to have been published on 17.06.2019. The impugned proceedings does not disclose that any personal notice was issued to the patta holder. In the said circumstances, the petitioner is before this court saying that the entire impugned proceedings stood vitiated due to non-service of notice to the petitioner.

4. The learned Counsel appearing for the petitioner would submit that the impugned proceedings does not reflect that any individual notice is actually issued to the petitioner, before the adverse order was passed by the second respondent. Therefore, on this short ground alone, the impugned proceedings is liable to be interfered with by this Court.

5. The learned Counsel would further submit that the right to property, being a Constitutional Right under Article 300A of the Constitution of India, cannot be negated without giving any opportunity to the petitioner and therefore, the impugned order of cancellation suffers from patent illegality and unsustainable in law.

6. On behalf of the respondents / Government, Mr.M.Jeyakumar, learned Additional Government Pleader entered appearance.

7. This Court perused the impugned proceedings dated 20.09.2019 and found force and substance in the submission made on behalf of the petitioner. The impugned proceedings merely states that a report of the third respondent was exhibited in the notice board of the VAO's office and other local office. Nowhere, it is mentioned as to the service of notice to the owner of the property, namely, the petitioner herein. Merely exhibiting the report in the notice board of the local office would not amount to proper notice to the person



concerned, particularly, when adverse order was to be passed against the person.

8. As rightly pointed out by the learned Counsel for the petitioner, non-service of notice to the petitioner vitiates the entire proceedings and such proceedings cannot be allowed to sustain under any circumstances. This Court, without going into the other submissions and grounds as raised in the writ petition, is convinced with the case of the petitioner on this short ground alone.

9. In view of the same, the writ petition is allowed and the impugned order passed by the second respondent in Na.Ka.No.701-63/2019/A2, dated 20.09.2019 is hereby set aside. The matter is remanded back to the second respondent to pass orders, afresh, after issuing appropriate notice to the petitioner and after providing her sufficient opportunity with regard to the enquiry to be undertaken by him in the patta proceedings and on such opportunity being afforded, the second respondent is directed to pass orders, on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

To

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Kodaikanal,
Dindigul District.

3.The Tahsildar,
Kodaikanal Taluk,
Dindigul District.

+1 CC to M/s.SPL GP (SR-2200[F] dated 27/01/2021)

W.P. (MD)No.18400 of 2020
22.01.2021

PU(CO)

TR(08.02.2021) 3P 5C

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