



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19018 of 2008

and

W.M.P.No.2 of 2008

Shankar

...Petitioner

vs.

1. The Collector,
Vellore District,
Vellore.

2. The District Revenue Officer,
Vellore District,
Vellore.

3. The Tahsildar,
Arokkonam Taluk,
Vellore District.

4. The Deputy Superintendent of Police,
Arokkonam Taluk,
Arokkonam.

5. A. Sampath

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent in his proceedings in Na.Ka.B.3/2008 dated _ .07.2008 and quash the same.

For Petitioner : Mr.Jeremiah

For Respondent
R1 to R4 : Mr.G.Nanmaran,
Special Government Pleader

For Respondent R5 : No Appearance



ORDER

This Writ Petition has been filed seeking for issuance of direction to call for the records of the 1st respondent in his proceedings in Na.Ka.B.3/2008 during the month of July 2008 and quash the same.

2. The case of the petitioner is that he purchased the property comprised in S.No.156, Parameswaramangalam Village, Arokkonam Taluk from one Govindaswamy Mudali. The 5th respondent and the vendor of the petitioner were the sons of the legal heirs of the original pattadhar one Murgappa Mudali. While so, the 5th respondent objected for transfer of patta to the petitioner's name. Thereafter, the 1st respondent directed the 5th respondent and the said Govindaswamy Mudali to approach civil Court for determination of their respective titles. Subsequently, the impugned order was passed by the 1st respondent in the month of July, 2008 directing the 3rd and 4th respondent not to permit any persons to enter upon the disputed land except the legal heirs of original owner Andiappa Mudali and persons who had purchased from any of the legal heirs of the said Andiappa Mudali. Challenging the said impugned order, this Writ Petition has been filed.

3. The learned counsel for the petitioner submitted that based upon the application made by the 5th respondent before the 1st respondent/District Collector, Vellore, the impugned order was passed by the 1st respondent without issuing any notice to the petitioner.

4. Heard the contentions of the learned Special Government Pleader appearing for respondents R1 to R4.

5. Though, the 5th respondent name has been entered in the cause list, no one has appeared today on behalf of the 5th respondent. Hence, this Court, considering the pendency of the case, is inclined to dispose the case based on the available records.

6. On perusal of the materials available on records and the counter affidavit filed by the 3rd respondent, it is evident that the 5th respondent made application before the 1st respondent for removing the illegal encroachment and cancellation of alleged patta in respect of the encroachers based on which, the impugned order was passed. However, before passing the impugned order, no opportunity of hearing was given to the petitioner, which vitiates the impugned order.

7. In view of the above, the petitioner having not been provided with any opportunity before passing the impugned order,



this Court, without expressing any opinion on the merits of the case, is inclined to set aside the impugned order. Accordingly, the impugned order passed by the 1st respondent is set aside and the 1st respondent is directed to pass appropriate orders after affording an opportunity of personal hearing to the petitioner as well as the 5th respondent.

8. Accordingly, these writ petitions stand disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To:

1. The Collector,
Vellore District,
Vellore.
2. The District Revenue Officer,
Vellore District,
Vellore.
3. The Tahsildar,
Arokkonam Taluk,
Vellore District.
4. The Deputy Superintendent of Police,
Arokkonam Taluk,
Arokkonam.

+1cc to the Government Pleader, S.R.No.10245

W.P.Nos.19018 of 2008
and
W.M.P.No. 2 of 2008

MT[co]
NSK 15/03/2022