



W.P.No.21646 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

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Arulprasanth

. . . Petitioner

Vs.

1. The District Revenue Officer,
Dharmapuri District,
Dharmapuri.
2. The Sub Collector/Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri
3. The Tahsildar,
Karimangalam Taluk,
Dharmapuri District,
Dharmapuri
4. The Village Administrative Officer,
Kelavalli Village,
Kaarimangalam Taluk,
Dharmapuri District.
5. J.Saravanan
6. Bakkiyam

. . . Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in connection with the order passed by him in Ni.mu.8785/2019/Pa2 dated 21.07.2022 and quash the same as illegal and direct the respondents 1 to 3 to restore the patta showing the name of the petitioner alone bearing Patta No.63 in Survey No.53/2, Kelavalli Village, Karimangalam Taluk, Dharmapuri District.

For Petitioner : Mr.V.L.Akshai Sajin Kumar
for M/s.P.A.Arvinth Viveks

For Respondent : Mr.T.K.Saravanan,
Government Advocate for R1 to R4

:M/s.S.Sudanthiran for R5 & R6

ORDER

The present petition has been filed seeking to quash the impugned order dated 21.07.2022 passed by the 1st respondent and to direct the respondents 1 to 3 to restore the Patta in the name of the petitioner alone.

2. It is the case of the petitioner that the petitioner is the owner of the land comprised in Survey No.53/2 measuring an extent of about 4.90 Acres, situated at Kelavalli Village, Krimangalam Taluk, Dharmapuri District by



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virtue of a registered Gift Settlement Deed dated 04.02.2011 which was executed by his grandfather in favour of the petitioner and Patta was issued in favour of the petitioner, pursuant to which, petitioner is in continuous possession of the said property, while so, the respondents 5 & 6 who are legal heirs of Srinivasan & Jaganathan, have approached the 1st respondent seeking cancellation of Patta which was granted in favour of the petitioner, based on which, Patta was cancelled by the 1st respondent based on the report of the 2nd respondent, vide the impugned order dated 21.07.2022. Challenging the said order, the present petition has been filed.

3. Learned counsel for the petitioner submits that the 1st respondent has no authority to cancel the Patta which was already granted, however, the competent authority to cancel the Patta is the 3rd Respondent. Hence, cancellation of Patta by the 1st Respondent vide the order impugned in this Writ Petition is not sustainable. Hence, the said order is liable to be set and this Writ Petition deserved to be allowed.



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4. Learned Government Advocate appearing for respondents 1 to 4

had not disputed the above submission made by the learned Counsel for the petitioner.

5. This Court heard the learned counsel on the either side and perused the materials available on record.

6. A perusal of the materials available on record reveals that the Patta in respect of the above said property stood in the name of the petitioner, which has been granted in the manner known to law by the Tahsildar in accordance with Section 3 of the Patta Passbook Act, which has been cancelled by the 1st respondent, on the basis of the representation of the respondents 5 & 6. The main attack of the petitioner is on the competency of the 1st respondent to cancel the patta as according to the petitioner, the authority competent to cancel the patta is only the Tahsildar, who has issued the patta and not the 1st respondent, who is the appellate authority.



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7. A perusal of the impugned order of cancellation of patta reveals that the 1st respondent has cancelled the patta issued to the petitioner, which is not in consonance with Section 10 of the Patta Passbook Act, which clothes power only on the Tahsildar to perform such functions. Such being the case, the impugned order having been passed by an authority not competent to pass such an order, definitely the said order is vitiated and, therefore, the same requires to be interfered with.

8. For the reasons aforesaid, the order impugned in the present Writ Petition is set aside and the matter is remanded with a direction to the 1st respondent/District Revenue Officer to forward the representation of the respondents 5 & 6 to the 3rd Respondent/Tahsildar. On receipt of the same, the 3rd respondent is directed to take up the representation and after affording an opportunity of hearing to the petitioner as well as the respondents 5 & 6, pass orders in accordance with the relevant provisions of the Patta Passbook Act.

M.DHANDAPANI, J.



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9. Accordingly, this Writ Petition is allowed in the above terms . No

Costs.

17.11.2022

NHS

Index : Yes / No

Internet : Yes / No

To

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