



WEB COPY



WP.No.25164 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.No.25164 of 2022
and W.M.P.No.24115 of 2022

N.Palanisamy

.. Petitioner

Versus

1.The Revenue Divisional Officer
Collector's Office, Salem

2.The Tahsildar
Salem West, Salem

3.Santhi
4.Indhirani

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent in Na.Ka.4574/2022/A3 dated 05.09.2022 and quash the same as illegal and consequently direct the respondent to issue summons to all the legal heirs of the deceased Naryana Gounder for proper adjudication of the patta appeal.

For Petitioner : Mr.K.A.Mariappan

For Respondents : Mr.T.K.Saravanan for R1-R2
Government Advocate



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ORDER

This writ petition is filed challenging the proceedings of the 1st respondent in Na.Ka.4574/2022/A3 dated 05.09.2022, quash the same and consequently direct the respondent to issue summons to all the legal heirs of the deceased Naryana Gounder for proper adjudication of the patta appeal.

2. The case of the petitioner is that the petitioner along with his family members are in possession of the lands in Survey No.32/4, Town Survey No.26 at Meyyanur Village, Salem Taluk, Salem and patta stands in their name. Further, the private respondent namely Santhi made an application on 26.08.2022, for cancellation of the said joint patta. Hence, the first respondent has issued the impugned summons to the petitioners. Challenging the same, this writ petition.

3. The learned counsel for the petitioner submitted that the second respondent has conducted enquiry and forwarded the report dated 29.08.2022 to the first respondent. Further, submitted that the cancellation or modification in the patta can only be done by the second respondent/Tahslidar under Section 10 of the Tamil Nadu Patta Passbook Act, 1983 and the first respondent has usurped the powers of the Tahsildar and the second respondent is the competent authority for effecting modification of entries in the patta passbook.



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Hence, seeks for appropriate orders.

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4. The learned Special Government Pleader submitted that he has no serious objection with regard to the prayer as sought by the petitioner.

5. It is to be noted that Section 10 of the Tamil Nadu Patta Passbook Act, 1983 contemplates that the Tahsildar is the competent authority to modify the entries in the patta pass book. The first respondent namely Revenue Divisional Officer is an appellate authority against the order of the the second respondent namely the Tahsildar.

6. Considering the facts and circumstances of this case, this Court, without going into the merits of this case, directs the first respondent to return the appeal dated 29.08.2022 to the second respondent within a period of two weeks from the date of receipt of a copy of this Order and the second respondent/Tahsildaer on receipt of the said appeal is directed to pass final orders, on merits and in accordance with law, after providing opportunity of hearing to the petitioner as well as the private respondents namely Santhi and Indhirani within a period of eight weeks thereafter.

7. In view of the above directions, this writ petition stands disposed



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of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
dhk

To

1.The Revenue Divisional Officer
Collector's Office, Salem

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Salem West, Salem

M. DHANDAPANI, J.



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