



W.P.No.29171 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.29171 of 2022
and W.M.P.No.28454 of 2022

P.Narayanan

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Kallakurichi District.

2.The Revenue Divisional Officer,
Kallakurichi District,
Kallakurichi.

3.The Tahsildar,
Ulundurpet,
Kallakurichi District.

4.The Village Administrative Officer,
Seekampattu Village,
M.Kummathur Post,
Ulundurpet Taluk,
Kallakurichi District.

5.Chandra

6.Palaniyammal
Respondents

...

Prayer : Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of Certiorarified Mandamus to call for the records



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relating to the proceedings of the 3rd respondent in Na.Ka.A5/4215/2022 dated 20.10.2022 and consequently direct the 3rd respondent to modify the entries in patta of the land in S.No.82/1 Seekampattu Village, M.Kunathur Post, Ulundurpet, Kallakurichhi District to extent of 20 Cents in the petitioner name.

For Petitioner : Ms.Dakshayani Reddy
for Mr.S.Sarath Chandran

For Respondents : Mr.U.Bharanidharan for RR1 to 4
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 3rd respondent in Na.Ka.A5/4215/2022 dated 20.10.2022 and consequently direct the 3rd respondent to modify the entries in patta of the land in S.No.82/1 Seekampattu Village, M.Kunathur Post, Ulundurpet, Kallakurichhi District to extent of 20 Cents in the petitioner name.

2. Since no adverse order is being passed against the private respondents 5 & 6, notice to the private respondents are dispensed with.

3.The case of the petitioner is that the property in S.No.82/1,



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Seekampattu Village, measuring to an extent of 20 Cents, originally

belongs to the petitioner's grandfather, who executed a Settlement Deed

registered as Document No.2537 of 1959 in favour of the petitioner's father

namely Dhandapani alias Palanisamy and the Revenue Records were

mutated in the name of the petitioner's father. After the demise of his father,

the petitioner is in peaceful possession and enjoyment of the

property. While so, the Government introduced the UDR Scheme (Updating

Data Registry). During the process of UDR Scheme, the petitioner's father

name has been left out and mutated in the names of the 5th and 6th

respondents, in spite of the fact the original title deed Document No.2537

of 1959 stands in the name of the petitioner's father. Gaining knowledge

about the same, the petitioner made an application dated 29.07.2022 to the

3rd respondent under Section 10 of the Tamil Nadu Patta Pass Book Act,

1993. Since, no order was passed, the petitioner filed a Writ Petition in

W.P.No.22308 of 2022 and this Court vide order 24.08.2022, directed the

3rd respondent to consider the petitioner's representation dated 29.07.2022

and pass appropriate orders after affording opportunity to petitioner as well

as the private respondents therein. Pursuant to which the 3rd respondent

issued proceedings vide Na.Ka.No.A5/4215/2022 dated 03.10.2022,

calling upon the petitioner to appear for personal hearing, the petitioner was



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present on that particular day, but no enquiry was conducted and due to official work, the enquiry was posted to 14.10.2022. Due to the short notice the petitioner was unable to attend, therefore, the petitioner authorised his brother to attend the enquiry. However, no enquiry was conducted and it was informed that the enquiry was postponed. While so, the 3rd respondent vide his proceedings Na.Ka.No.A5/4215/2022 dated 20.10.2022, passed an order, rejecting the claim of the petitioner on the ground that the petitioner failed to appear before the 3rd respondent on 06.10.2022 and 14.10.2022, the petitioner has not produced any valid documents to support his claim. Challenging the said order of rejection, the petitioner has come forward with the present Writ Petition.

4.The learned counsel for the petitioner submits that the petitioner is the owner of the property in S.No. S.No.82/1, Seekampattu Village, measuring to an extent of 20 Cents. He made an application for issuance of patta and however, no order was passed, the petitioner filed a Writ Petition in W.P.No.22308 of 2022 and this Court vide order dated 24.08.2022, directed the respondent therein, to consider the petitioner's representation dated 29.07.2022 and pass appropriate orders after affording opportunity to petitioner as well as the private respondents therein.



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WEB COPY 5.He further submitted that though enquiry notice was issued to the petitioner two times, no full fledged opportunity was given to the petitioner prior to the passing of the impugned order in Na.Ka.No.A5/4215/2022 dated 20.10.2022, which is a clear violation of principles of natural justice. Accordingly, prayed for appropriate orders.

6.Mr.U.Bharanidharan, learned Additional Government Pleader, appearing for the respondents 1 to 4 submitted that though sufficient opportunity was granted to the petitioner, however, as against the order passed by the Tahsildar/ 3rd respondent, there is an effective and alternative remedy available before the 2nd respondent under Section 12 of the Tamil Nadu Patta Pass Book Act, 1993. Without exhausting the effective remedy available, filing this Writ Petition under Article 226 of the Constitution of India is not maintainable.

7.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4.

8.Without expressing any opinion on the case, as rightly pointed out



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by the learned Special Government Pleader, as against the order passed by

the Tahsildar/ 3rd respondent, there is an effective and alternative remedy

available before the 2nd respondent under Section 12 of the Tamil Nadu

Patta Pass Book Act, 1993. Without exhausting the alternative remedy

available to the petitioner, filing this Writ Petition under Article 226 of the

Constitution of India is not maintainable, hence, the prayer sought for

cannot be granted. However, petitioner is granted liberty to file appropriate

application before the 2nd respondent in terms of the Section 12 of the Act,

within a period of two weeks. On filing of such an appeal, the 2nd

respondent is directed to hear the petitioner by providing opportunity and

pass appropriate orders and in accordance with law including the necessary

parties within a period of twelve weeks from the date of receipt of a copy

of this order.

9. Accordingly, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order: Yes/ No

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M.DHANDAPANI, J.

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