



W.P.No.15538 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

CORAM:

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

W.P.No.15538 of 2017

and

W.M.P.No.16853 of 2017

A.Velan

. . Petitioner

Vs.

1. The Sub Collector,
Tindivanam

2. The Thasildar,
Tindivanam

3. Raja Pandiyan

. . . Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiotari or any other order or direction in the nature of appropriate writ calling for the records of the 2nd respondent in his proceedings in ந.க.அ4/சி.ப.எண்.53/2017 நாள் 31.05.2017 and received by the petitioner on 10.06.2017 and also the joint patta in patta No.409 in respect of the property in S.No.9/8-0.36.0 ares (89 cents) dated 05.05.2017 situate in Kuruvamapettai village, Tindivanam Taluk, including the name of the 3rd respondent in the patta and quash the same.



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For Petitioners : M/s.N.Suresh
For Respondents : Mr.T.K.Saravanan
Government Advocate for R1 & R2
: M/s.V.Raghavachari for R3

ORDER

The present petition has been filed seeking to quash the impugned proceedings dated 31.05.2017 which came to be passed by the 2nd respondent.

2. It is the case of the petitioner that the property in Survey No.9/113 to an extent of about 0.05.50 ares Survey No.9/8 to an extent of about 0.36.00 ares situated at Kuruvamapettai village, Tindivanam taluk was settled in favour of the petitioner's father and Patta stands in the name of the petitioner's father. After the demise of his father, the petitioner is in possession of the above property and he made a representation dated 28.01.2017 before the respondents, seeking transfer of Patta. Pending consideration of the petitioner's representation, the 2nd respondent had issued joint patta in favour of the 3rd respondent. In order to conceal the same, the



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present impugned notice dated 31.05.2017 came to be passed by the 2nd respondent, calling the petitioner for enquiry with regard to issuance of patta. Challenging the said notice, the present petition has been filed.

3. Learned counsel for the petitioner submits that after having issued joint patta in favour of the 3rd respondent, issuing enquiry notice in order to conceal the same, is wholly unsustainable. Therefore, the impugned notice issued by the 2nd respondent is liable to be quashed and this Writ Petition may be allowed.

4. Learned Government Advocate appearing for respondents 1 & 2 submits that the petitioner cannot challenge the enquiry notice at the preliminary stage unless it is issued without jurisdiction. Therefore, the present impugned notice needs no interference and the prayer sought for in this Writ Petition cannot be granted.

5. It has been the consistent view of the Courts that interference



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cannot be made at the stage of notice unless it is issued without authority.

Such being the case, challenging the impugned enquiry notice at the preliminary stage is wholly impermissible. Therefore, the prayer sought for in this Writ Petition cannot be considered. The petitioner is directed to partake in the said enquiry and put forth all his contentions as advanced before this Court and upon hearing the parties, the 2nd respondent is directed to pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner as well as the 3rd respondent.

6. For the reasons aforesaid, this Writ Petition is devoid on merits and the same is dismissed accordingly. No Costs. Consequently, connected Miscellaneous Petition is closed.

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NHS

Index : Yes / No

Internet : Yes / No



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WEB COPY To

1. The Sub Collector,
Tindivanam
2. The Thasildar,
Tindivanam



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M.DHANDAPANI, J.

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