



W.P.(MD).No.13883 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 15.07.2012

ORDER PRONOUNDED ON : 21.07.2022

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.13883 of 2012
and MP(MD).No.1 of 2012**

1.Murugappan Servai (died)

2.M.Kalai Raja

3.M.Sornalingam

....Petitioners

(Petitioners 2 and 3 are impleaded as legal heirs of the deceased first petitioner vide Court order dated 20.02.2013)

Vs

1.The District Revenue Officer
Sivagangai
Sivagangai District

2.The Revenue Divisional Officer
Devakottai
Sivagangai District

3.The Tahsildhar
Devakottai
Sivagangai District

4.Subramani

5.Ramanathan



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6.S.Dhanapal
The District Revenue Officer
Sivagangai
Sivagangai District

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings dated 28.09.2012 of the first respondent in B1-C.M.No.27-2009 and quash the same and consequently direct the first respondent to hold an enquiry by affording sufficient opportunity of hearing to this writ petitioner and others and thereafter dispose of the revision filed by the fourth respondent on merits.

For Petitioners : Mr.V.R.Shanmuganathan

For R1 to R3 :Mr.N.Muthuvijayan
Special Government Pleader

For R4 : Mr.R.Balakrishnan

For R5 & R6 : No appearance

ORDER

The present writ petition has been filed challenging an order passed by the District Revenue Officer in which Patta standing in the name of the writ petitioner was transferred in the name of the fourth respondent herein.

2.According to the learned counsel for the petitioner, the property in dispute namely T.S.No.5 having an extent of 22581 sq.ft originally belongs to his father one K.Kalimuhtu Servai@ Samiahiah Servai. According to the first



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petitioner, he is the only legal heir of the said Kalimuhtu Servai. However, during the resurvey proceedings by mistake it was entered as K.Kalimuthu Servai, S/o.Sornakalai Servai. In the said circumstances, the petitioner had filed an appeal before the second respondent for rectifying the said mistake and for grant patta in his name. However, the fourth respondent had made a claim that the said K.Kalimuthu Servai is his grandfather and that his grandfather died leaving his father Chelladurai as his legal heir.

3.The learned counsel for the petitioners had further contended that the second respondent herein by his proceedings dated 21.10.2008 allowed the claim of the petitioner and rejected the claim of the fourth respondent herein. In view of the said order, Patta was entered in the name of the writ petitioner. As against the same, the fourth respondent preferred a revision to the first respondent herein.

4.According to the learned counsel for the petitioner, he had submitted his written objection to the revision on 14.07.2009. Since the petitioner entertained certain doubts about the attitude of the first respondent herein, he filed W.P.No.13027 of 2012 seeking a writ of mandamus forbearing the first respondent from in any manner disposing the revision without any enquiry and without affording sufficient opportunity to the writ petitioner. Along with the writ petition,the petitioner had filed an interim application. The writ



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petition was filed on 01.10.2012 and it came up for admission on 08.10.2012.

The matter was adjourned with a direction to the Government Pleader to take notice and to get instruction and it was posted on 15.12.2012. When the matter was listed on 15.12.2012, it did not reach. The petitioner's counsel received the impugned order dated 28.09.2012 only on 21.10.2012. Hence, according to the learned counsel for the petitioners, the first respondent had got colluded with the fourth respondent. Hence, the present impugned order is liable to be set aside. The first respondent has also been impleaded in his personal capacity as sixth respondent herein.

5.The learned counsel for the respondents was directed to produce the files to verify whether the written objections have been received by the first respondent and the date on which the impugned order came to be passed. A perusal of the file, indicates that the last date of hearing of the revision was 26.09.2012 and the impugned order has been passed on 29.09.2012. Though the impugned order has been passed on 28.09.2012, the said order has been posted on 17.10.2012 and the cover has been received by the petitioners on 21.10.2012. The learned counsel for the respondents had further contended that only after hearing the writ petitioner in full and after considering his written submission, the order has been passed. That apart, the petitioner had obtained a legal heir certificate as if his father name is Kalimuthuu Servai



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when originally his father's name is Samiahiah. Hence, he prayed for dismissal of the writ petition.

6.I have considered the submissions made on either side.

7.The case of the petitioner is that without affording any appropriate opportunity to the writ petitioner, the impugned order has been passed by the first respondent herein. He had further contended that originally Patta has been standing in the name of the writ petitioner. However, the same has been falsely transferred in the name of the fourth respondent. A perusal of the impugned order clearly indicate that the property in dispute belongs to one Kalimuthu. Whether the said Kalimuthu is the grandfather of the fourth respondent herein or the father of the writ petitioner herein was the dispute before the first respondent. The first respondent has proceeded to hold that the said K.Kalimuthu is the grandfather of the fourth respondent relying upon the death certificate of the writ petitioner and registered partition deeds within the family of the writ petitioner. Hence, according to the learned counsel for the writ petitioner, the title has been decided by the first respondent herein while disposing of the revision proceedings arising out of Patta Pass Book Act. Hence, it is clear that the first respondent has arrived at some prima facie view relating to the erroneous grant of patta in favour of the



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writ petitioner. However, his observation relating to the proprietary rights of the writ petitioner are likely to affect the right of the writ petitioner before the Civil Court.

8.The first respondent has passed an order transferring Patta in favour of the fourth respondent herein after arriving at certain prima facie view relating to the title of the property. However, the said observation made by the first respondent in the impugned order cannot stand in the way of the writ petitioner when he approaches the Civil Court. In case, the writ petitioner approaches the competent Civil Court, the Civil Court shall decide the matter uninfluenced by the order of the first respondent or observation made by this Court in the writ petition.

9. This Court has arrived at a finding that only after granting sufficient opportunity, the impugned order has been passed and there are no other grounds to interfere in the order passed by the first respondent. Hence, the writ petition stands dismissed with the above said observation. No costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes/No
Index : Yes/No
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To

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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