



W.P.(MD).No.4988 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.4988 of 2012 and
M.P.(MD)No.1 of 2012

1.M.Natesan (Deceased)
2.Vivekananthan
*(Petitioner subtituted, vide Court
order, dated 29.06.2022, in W.M.P.
(MD)No.9415 of 2022 in W.P.(MD)
No.4988 of 2012)*

... Petitioner

Vs.

- 1.The District Revenue Officer,
Thanjavur District,
Thanjavur.
- 2.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.
- 3.The Tahsildar,
Thiruvidaimaruthur,
Thanjavur District.
- 4.Dhandapani
- 5.Swaminathan
- 6.Parameshwari

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records relating to the proceedings of the 1st respondent, dated 12.05.2011 in proceedings த.ப.எண்.15/2009/உ(2) and to quash the same and consequently, to direct the 1st respondent to issue the patta in the name of the petitioner herein.

For Petitioner	: Mr.G.Gomathi Sankar
For R1 to R3	: Mr.P.Thambidurai Government Advocate
For R4 to R6	: No appearance

ORDER

The present writ petition has been filed to quash the order passed by the second respondent herein under which the request of the petitioner for mutation of patta in his name was rejected.

2.Though the private respondents have been served and name printed in the cause list, there is no representation on their side.

3.According to the learned Counsel for the petitioner, the father of the private respondent had filed O.S.No.317 of 2002 before the District



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Munsif of Valangaiman at Kumbakonam for the relief of permanent injunction against the writ petitioner with regard to old survey number 182/9, new survey number 274/19 for an extent of 22 cents. After trial, the said suit was dismissed on 09.09.2004. The father of the respondents 4 to 6 had filed A.S.No.131 of 2004 before the Additional Sub Court, Kumbakonam. The said appeal was also dismissed on 09.08.2005. Since no second appeal was filed, the said judgement and decree have become final.

4.The learned counsel for the petitioner further contended that the respondents ought to have relied upon the two sale deeds to the father of the respondents 4 to 6 in document No. 497/48 and document No. 1573/1952 to arrive at a finding that the respondent's father is entitled to the property and hence, they have proceeded to grant patta. It is seen from the judgement in O.S.No.317 of 2002 that these two documents were relied upon by the father of the respondents 4 to 6 in the said suit, for seeking permanent injunction. After considering these two documents, the Civil Courts have arrived at a finding that the father of



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respondents 4 to 6 is not entitled to decree for permanent injunction.

When the Civil Courts have considered the documents and arrived at an adverse finding as against respondents 4 and 6, the same cannot be relied upon by the revenue authorities for grant of patta.

5.In view of the above said discussion, the impugned order in the writ petition is set aside. The first respondent is directed to grant patta in the name of the writ petitioner. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

6.With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2022

Index : Yes / No

Internet : Yes / No

Tmg



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WEB COPY

- To
- 1.The District Revenue Officer,
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Thanjavur.
 - 2.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.
 - 3.The Tahsildar,
Thiruvudaimaruthur,
Thanjavur District.



WEB COPY



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R.VIJAYAKUMAR ,J.

Tmg

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

Order made in
W.P.(MD).No.4988 of 2012

28.07.2022