



W.P.(MD).No.8709 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.8709 of 2012 and
M.P.(MD)No.2 of 2012

Maluk Educational Health and
Charitable Trust,
represented by its Chairman,
M.Abdul Majedu,
No.49, Raja Colony,
Collector Office Road,
Trichy – 620 001.

... Petitioner

Vs.

- 1.The District Collector,
Trichy District, Trichy.
- 2.The District Revenue Officer,
Trichy.
- 3.The Revenue Divisional Officer,
Lalgudi, Trichy District.
- 4.The Tahsildar,
Mannachanallur Taluk,
Mannachanallur,
Trichy District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.AA5-13149-2012, dated 28.04.2012, to quash the same and to direct the respondents to restore the patta for the land measuring an extent of 3 acre 68 cents in S.F.No.568 situated at Siruganur Village, Manachanallur Taluk, Trichy District, in the name of the petitioner trust.

For Petitioner : Mr.M.Saravanan
For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present writ petition has been filed challenging the order passed by the second respondent herein under which the patta granted in favour of the petitioner was cancelled without notice to the petitioner.

2.According to the learned Counsel appearing for the petitioner, the property having an extent of 3 acres and 68 cents was originally was not in favour of one Veeran Chetty in the year 1967. He has sold the property in favour of Saburnisa in the year 1996. The said Saburnisa gifted the said property in favour of the petitioner trust in the year 1998. Even though the registered documents were standing in the name of the



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petitioner trust, the revenue records reflected it as Government Tharisu due to some mistake in the UDR proceedings. Hence, the petitioner approached the second respondent herein to rectify the same. The second respondent after conducting an enquiry arrived to a conclusion that it was wrongly classified as Government Tharisu. Hence, he passed an order on 27.03.2012, directing the incorporation of the name of the petitioner trust in the revenue records.

3. According to the learned Counsel for the petitioner, without any appeal or revision from any one of the parties, the first respondent has suo moto taken up the matter and passed an impugned order on 28.04.2012, cancelling the order of the DRO, dated 27.03.2012. No show cause notice was issued to the petitioner nor any enquiry was conducted before passing the impugned order. Hence, the present writ petition is filed.

4. Per contra, the learned Counsel for the respondents contended that the original order of assessment in favour of Venkatan Chetty has



5. Apart from that, there is also a water body in the portion of the

Hence, the impugned order was passed by the first respondent.

fore, he prayed in sustaining the impugned order passed by the first

ndent.

6. I have carefully considered the submissions made on the either sides. The second respondent herein has passed an order on 27.03.2012, granting an order in favour of the writ petitioner trust, thereby, incorporating the name of the petitioner in the revenue records. However, the said order has been reversed by the first respondent. Before reversing the said order, no show cause notice or no enquiry has been conducted by the first respondent herein. The entire impugned



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order is behind the back of the writ petitioner. Hence, the impugned order is clearly in violation of the principles of natural justice.

7. In view of the above said reasons, the impugned order is set aside, the matter is remitted back to the file of the first respondent for passing fresh orders on merits and in accordance with law, after giving out necessary opportunity to the writ petitioner. The writ petitioner is also at liberty to raise defence that the first respondent is not having any jurisdiction to entertain an appeal as against the order passed by the DRO.

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

19.07.2022

Index : Yes / No

Internet : Yes / No

Tmg



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R.VIJAYAKUMAR ,J.

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To

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Trichy District.

Order made in
W.P.(MD).No.8709 of 2012

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.

19.07.2022