



W.P.(MD) No.19595 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.19595 of 2013

and

M.P.(MD) No.1 of 2013

Rama.Rajendran

... Petitioner

/vs./

1.The Revenue Divisional Officer,
Tiruchirappalli 620 001.

2.Porkodi Pandiyan

3.The Tahsildar,
Tiruchirappalli West,
Tiruchirappalli 1.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records culminated in the Proceedings No. Rc.A7/5396/2013 dated 24.10.2013 on the file of the 1st respondent and quash the same as illegal, unenforceable, ultra vires without jurisdiction and directing the 3rd respondent not to make any kind of mutation in the revenue registry in respect of the property admeasuring an extent of Ac.0.10



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cents comprised in S.F.No.217/12A and Ac.0.15-1/2 comprised in S.F.No. 217/15A totally to an extent of Ac.0.25-1/2 situated in Edamalaipatti Prattiyyur East Village, Srirengam Taluk, Tiruchirapalli District.

For Petitioner : Mr.K.S.Sankhar Murali
For R1 & R3 : Mrs.D.Farjana Ghoushia
Special Government Pleader
For R2 : No appearance

ORDER

The impugned order in this writ petition is an order passed by the first respondent, disposing of an application filed by the second respondent herein seeking to grant patta in his name on the strength of the settlement deed dated 08.05.1996 executed by his father, Ramaiya Pillai.

2.None appears for the second respondent.

3.The first respondent had issued summons upon the petitioner and the fourth respondent for an enquiry. On 26.08.2013, both the parties have appeared. According to the learned counsel for the petitioner, no date of further hearing was issued as stated in the impugned order. Hence, the petitioner had no opportunity of representing his case before the first respondent.



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4.Mr.K.S.Sankhar Murali, learned counsel for the petitioner would submit that originally the petitioner's father, Ramaiya Pillai on 22.07.1991 had sold the property to one Gnanaraja and the said Gnanaraja through his power of attorney has sold the said property in favour of the petitioner on 03.08.2001. These were all not within the knowledge of the first respondent. If an opportunity is given to the petitioner, he will place all the materials available with him to substantiate his case. He would also submit that by an *ex parte* judgment and decree dated 24.08.2010 in O.S.No.1533 of 2006, the petitioner had also obtained an injunction against the second respondent from interfering with his peaceful possession. The said *ex parte* decree is still in force. The impugned order proceeds on the presumption that there was no objection from the petitioner, as he had not appeared on the dates of hearings, which were fixed.

5.The learned counsel for the petitioner would also submit that there was no notice of hearing for the subsequent dates, namely 10.09.2013, 16.09.2013 and 30.09.2013. The hearing dates indicated in the impugned order are all imaginary and have been made only for the purpose of the case.



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6.I have considered the arguments as well as the claim of the petitioner.

7.It is apparent that the impugned order has been passed on a presumption that the petitioner has no objection. There is no documentary evidence to substantiate that the petitioner was put on notice on the subsequent hearings. On that ground alone, I am inclined to interfere with the order impugned in this writ petition.

8.In the light of the above, the impugned order in this writ petition is liable to be set aside and the issue is remanded back to the first respondent to conduct a fresh enquiry after affording an opportunity of hearing to the petitioner and the second respondent. I am also inclined to direct the petitioner and the second respondent to appear before the first respondent on 24.01.2023, on which date the first respondent shall hear the petitioner and the second respondent and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter.



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9. With the above directions, the Writ Petition is allowed. The order impugned in this writ petition is set aside and the issue is remanded back to the first respondent herein. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
Non Speaking : Yes / No

13.12.2022

To

1. The Revenue Divisional Officer,
Tiruchirappalli 620 001.

2. The Tahsildar,
Tiruchirappalli West,
Tiruchirappalli 1.



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K.KUMARESH BABU, J.

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