



W.P.(MD)No.1089 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **15.09.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE MOHAMMED SHAFFIQ**

W.P.(MD)No.1089 of 2020

and

W.M.P.(MD).No.880 of 2020

Sasikumar

.. Petitioner

Vs

1.The Special Officer/District Revenue Officer,
(Temple Lands)
Hindu Religious Charitable Endowment,
Ellis Nagar,
Madurai-625 016.

2.The Inspector,
Arulmiku Kurunadha Swami Temple, Errampatti,
Solavandhan Office,
Solavandhan,
Vadipatti Taluk,
Madurai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the impugned order vide office proceedings in Na.Ka.No.A/19/2019 dated 27.09.2019 on the file of the first respondent office and quash the same.



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For Petitioner : Mr.R.Karunanidhi
For R1 : Mr.P.Subbaraj
Special Government Pleader

ORDER

The Writ Petition has been filed challenging the impugned order dated 27.09.2019 passed by the 1st respondent primarily on the ground that the impugned order has been made without complying with the principles of natural justice, inasmuch as after serving the notice on the Petitioner dated 24.09.2019 and calling upon the Petitioner to submit the documents on 27.09.2019, the impugned order has been made on the very same day i.e., on 27.09.2019.

2.It was submitted that granting 3 days time is inadequate before passing of the impugned order. Secondly, the very fact that the impugned order came to be passed on the very same day i.e., 27.09.2019, when the Petitioner was called upon to submit documents, would show that the order is passed in undue haste.



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3. To the contrary, the learned Special Government Pleader would submit that the Writ Petition lacks merit and sought to place reliance on the counter, in particular, the following portions, which is extracted below:

4.I humbly submit during the Minor Inam Abolition and Conversion into Ryotwari Settlement Operation, for an extent of 4.02 acres Dry land comprised in Survey No.59/4, of Errampatti Village, Ryotwari Patta was issued in favour of Arulmigu Gurunathasamy Temple, Errampatti, Vadipatti Taluk, Madurai District by the Minor Inam abolition settlement Tahsildar in his SR/138/MIAct/NLK/68 dated 08.03.1968 under Section 8(2)(ii) of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Tamil Nadu Act 30 of 1963). No one has challenged the above order and it attained finality and still in force. The above patta granted to the Inam land in favour of the temple shall not be involved in any encumbrance either by the Poosari who has been performing poojas as service in the temple or by the trustee or Manager of the above said temple. If any encumbrance is made in the above



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Inam land by any body it is null and void under the provisions of the Minor Inam Abolition Settlement Act 30/1963.

5.I humbly submit that at the time of UDR scheme, the above stated temple property comprised in Survey No.59/4 at an extent of 1.64.0 Hectare was wrongly registered in the name of one Krishnan, S/o. Late Alagumoopanar in the computerized patta No. 671.

6.I respectfully submit that knowing all the above facts that the temple land was wrongly registered in favour of individuals at the time of UDR Scheme and to rectify the above UDR defect and to change the patta in the name of the temple, the second respondent has filed an appeal before the first respondent on 31.01.2019 to register patta for the lands in the name of the temple. After hearing both side arguments, the first respondent has passed final order on 27.09.2019 in his Na.Ka.No.m/19/2019 by cancelling the name of the petitioner in patta No.671 and ordered to register the patta in the name of the Arulmigu Gurunathasamy Temple, Errampatti Village, Vadipatti Taluk, Madurai District as per the order passed by the Minor Inam Abolition Settlement Tahsildar in his SR/138/MIAct/NLK/68 dated



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08.03.1968. In the above order, the first respondent also directed the Tahsildar of Vadipatti to make relevant corrections in the 'A' Register, Chitta, Adangal and Computer Patta which are maintained by the revenue officials and to submit report to him with the corrected Computer Patta changed in the name of the above temple.

4.The learned Special Government Pleader appearing for the Respondents submitted that the Petitioner was served with a notice prior to the date of impugned order and adequate opportunity was also given to the Petitioner and therefore, the impugned order does not warrant any interference.

5.On perusal of the materials available on records, this Court is of the view that the impugned order dated 27.09.2019 is liable to be set aside for having been made in violation of principles of natural justice inasmuch as the notice dated 19.09.2019 received by the petitioner on 24.09.2019 calling upon the Petitioner to produce the documents relating to the period prior to 1960 on 27.09.2019, i.e., three days after the



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service of notice. the opportunity that is contemplated is not meant to be an empty formality but must be meaningful and real which is not the case. There is also merit in the submission that there has been undue haste in passing the impugned order. It has been held that an action in haste tends to arbitrariness and thus stands vitiated. In this regard, it may be relevant to refer to the decision of the Hon'ble Supreme Court in the case of ***Zenit Mataplast (P) Ltd. v. State of Maharashtra***, reported in **(2009) 10 SCC 388**:

“39. Anything done in undue haste can also be termed as arbitrary and cannot be condoned in law (vide M.P. Hasta Shilpa Vikas Nigam Ltd. v. Devendra Kumar Jain [(1995) 1 SCC 638 : 1995 SCC (L&S) 364 : (1995) 29 ATC 159] and Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia [(2004) 2 SCC 65 : AIR 2004 SC 1159]).

40. If the instant case is considered, in the light of the above settled legal propositions and admittedly the whole case of the appellant is based on violation of Article 14 of the Constitution as according to the appellant it has been a case of violation of equality clause enshrined in Article 14, the facts mentioned hereinabove clearly establish that the Corporation and the Government proceeded in haste while



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considering the application of Respondent 4 which tantamounts to arbitrariness, thus violative of the mandate of Article 14 of the Constitution.”

The very fact that the order came to be passed on the very same day when the Petitioner was called upon to produce the documents, also vitiates the proceedings. It has been consistently held by this Court that the order passed on the same day on which objection was submitted by itself indicate violation of natural justice.

The impugned order that came to be passed after recording the statement of the Petitioner on 27.09.2019 on the same day is also indicative of the fact that the proceedings suffers from the vice of predetermination, which would vitiate the proceeding.

6.For all the above reasons, this Court deems it fit to remit the matter back to the 1st Respondent to decide the matter afresh after granting adequate opportunity to the Petitioner. The Petitioner is directed



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to produce all documents and file his objections before the 1st Respondent within a period of twelve weeks from the date of receipt of a copy of this order. The 1st Respondent shall thereafter proceed to decide the matter on merits and in accordance with law within a period of four weeks from the date of production of the documents by the petitioner.

7. With the above direction, this writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

15.09.2022

Index: Yes/No
Internet : Yes/No
vsg

To:

The Special Officer/District Revenue Officer,
(Temple Lands)
Hindu Religious Charitable Endowment,
Ellis Nagar,
Madurai-625 016.

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MOHAMMED SHAFFIQ, J.

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