



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.1928 of 2022

and

W.M.P. (MD) .No.1657 of 2022

Steevansan

... Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.10686/A6/2019 dated 01.09.2020 passed by the third respondent and quash the same as illegal and consequently directing the third respondent to restore the petitioner's name in the Patta No.1011 in Old Survey No.60/8 and New Survey No.243/13 to the extent of 1575.5 sq.ft situated at Alagapuri Village, Uthamapalayam Taluk, Theni District by considering the petitioner's representation dated 16.08.2021, within a time stipulated by this Court.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.M.Lingadurai
Special Government Pleader.

ORDER

This Writ Petition has been filed challenging the order dated 01.09.2020 passed by the third respondent cancelling the petitioner's patta in respect of the property comprised in Old Survey No.60/8, New Survey No.243/13 measuring an extent of 1575.75 square feet, situated at Alagapuri Village, Uthamapalayam Taluk, Theni District.



2. The case of the petitioner is that he along with the legal heirs of the deceased Palanisamy are the absolute owners of the aforementioned property, having been issued assignment patta in the year 1997. According to the petitioner, they are in possession and enjoyment of the same ever since 1997. But arbitrarily and illegally, without adhering to the principles of natural justice, the impugned order dated 01.09.2020 came to be passed by the third respondent cancelling the petitioner's patta. Aggrieved by the same, this Writ Petition has been filed.

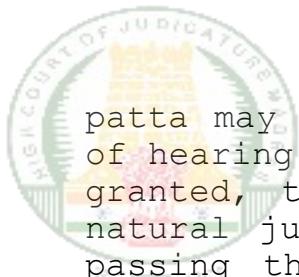
3. Heard Mr.C.K.M.Appaji, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader, who accepts notice on behalf of the respondents.

4. The third respondent has filed the counter denying the contentions of the petitioner. According to the third respondent, the subject property was earmarked as 'Harijana Natham' and the petitioner's father had already availed free house site in Survey No.243/7 measuring an extent of 2.15 cents by Patta No.983. Suppressing the same, he has obtained another patta namely Patta No.1011, which is the subject matter of this Writ Petition and only under those circumstances, the impugned order came to be passed cancelling Patta No.1011.

5. According to the respondents, the petitioner's father was only entitled for one free house site patta. But, since, he had obtained two free house site pattas, the impugned order came to be passed. It is also the contention of the respondents that there is an alternative efficacious statutory appellate remedy available to the petitioner aggrieved by the impugned order and therefore, the Writ Petition is not maintainable. Further, it is the contention of the respondents that, as on date, the house site is still vacant while the patta was issued in the year 1997 itself, which violates the terms and conditions.

6. Admittedly, the impugned order has been passed without affording a hearing to the petitioner. The petitioner's late father was issued the house site patta bearing No.1011 in the year 1997. Only under the impugned order dated 01.09.2020, the said patta came to be cancelled. According to the respondents, it was cancelled only due to the fact that the petitioner's father was entitled only for one free house site patta. But, suppressing the earlier free house site patta granted in his name, he has applied for the second free house site patta and also obtained the same bearing Patta No.1011 in the year 1997. According to the respondents, only under those circumstances, the impugned order came to be passed cancelling the said patta.

7. Since the petitioner has been enjoying the possession of the property since 1997, though the reason for cancelling this



patta may be correct, he ought to have been granted an opportunity of hearing in the impugned proceedings. Since the same has not been granted, this Court is of the considered view that principles of natural justice have been violated by the third respondent before passing the impugned order dated 01.09.2020 cancelling the patta standing in the name of the petitioner's late father. Since the third respondent violated the principles of natural justice, the question of alternate statutory appellate remedy preferred under the Patta Passbook Act will not arise and therefore, the Writ Petition is maintainable.

8. For the foregoing reasons, the impugned order has to be quashed and the matter has to be remanded back to the third respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing.

9. In the result, the impugned order dated 01.09.2020 passed by the third respondent is hereby quashed and the matter is remanded back to the third respondent for fresh consideration and the third respondent shall pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10. With the aforesaid directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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.

To

1.The District Collector,
Theni District.



2.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3.The Tahsildar,
Uthamapalayam Taluk,
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+1 CC to M/s.SPL GP (SR-10605[F] dated 08/03/2022)

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