



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.7825 of 2022

and

W.M.P. [MD]Nos.5872 & 5873 of 2022

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Balakrishnan

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

3.The Village Administrative Officer,
Koodankulam Village,
Radhapuram Taluk,
Tirunelveli District.

4.Lingapushpam
5.Suyambukani
6.Balasaraswathi

7.The Sub Registrar,
Radhapuram Sub Registrar Office,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned patta dated 11.04.2022 in survey number 19/7 and 20/2A in Koodankulam Village, Tirunelveli District and quash the same as illegal and consequently directing the second respondent to restore the earlier position of patta as on date 04.01.2022.

For Petitioner : Mr.S.Saravanakumar

For Respondents 1 to 3 : Mr.M.Lingadurai
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the order dated 11.04.2022 passed by the second respondent, reissuing the patta in favour of the legal heirs of the deceased Pon @ Samikannu Nadar,

<https://hcservices.ecourts.gov.in/hcservices/>



though originally the patta was issued in favour of the petitioner and his brothers alone in Patta No.3773. The petitioner has challenged the impugned order on the ground of violation of principles of natural justice.

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2. According to him, having been issued Patta No.3773, which includes his name as well as his brothers as per the Will executed by their father, the second respondent arbitrarily and illegally without giving an opportunity of hearing has cancelled the same and issued Patta No.5909 in favour of all the legal heirs of Pon @ Samikannu Nadar, which includes the petitioner also.

3. Admittedly, as seen from the Patta No.5909, there is no reference by the second respondent that notice of hearing was given to the petitioner. Only based on the legal heirship certificate for the deceased, the patta has been issued in favour of all his legal heirs which includes the petitioner also. The petitioner claims that by virtue of a Will executed by his father, the petitioner and two other brothers are alone entitled for the property and accordingly, Patta No.3773 was also issued in their favour for the subject property. According to the petitioner, all the legal heirs are not entitled for the property, excepting for three cents which includes the petitioner also.

4. The contentions raised by the petitioner have not been considered by the second respondent as seen from the Patta No.5909 issued by him. No opportunity of hearing has been granted to the petitioner. Hence, this Court is of the considered view that principles of natural justice has been violated by the second respondent as earlier Patta No.3773 was issued in favour of the petitioner and two of his brothers. Whereas Patta No.5909 which has been challenged in this writ petition has been issued in favour of all the legal heirs who are seven in number which includes the petitioner.

5. For the foregoing reasons, this Court is of the considered view that the impugned Patta No.5909 dated 11.04.2022 has to be necessarily quashed and accordingly, the same is quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner and the respondents 4, 5 and 6 and other legal heirs of the deceased Pon @ Samikannu Nadar and pass final orders within a period of four [4] months from the date of receipt of a copy of this order.



6. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Vacation Officer/
Assistant Registrar (CS-II)

// True Copy //

/ /2022
Sub Assistant Registrar (CS)

MR

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.
3. The Village Administrative Officer,
Koodankulam Village,
Radhapuram Taluk,
Tirunelveli District.
4. The Sub Registrar,
Radhapuram Sub Registrar Office,
Tirunelveli District.

+1 CC to M/s.SPL.GP. (SR-21190[F] dated 26/04/2022)

ORDER MADE IN
W.P. [MD]No.7825 of 2022
25.04.2022

SS (CO)
GC (18.05.2022) 3P 6C