



W.P.(MD) Nos.13439 to 13475, 13477 & 13478 of
2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)Nos.13439 to 13475, 13477 & 13478 of 2021

and

W.M.P.(MD)Nos.10387 to 10422, 10424, 10425 & 10428 of 2021

and

W.P.(MD)No.19299 of 2020

and

W.M.P.(MD)No.16104 of 2020

W.P.(MD)No.13439 of 2021

Chellammal

... Petitioner

-Vs-

1.The District Collector,

Office of the District Collector,

Madurai District.

2.The Revenue Divisional Officer,

Office of the Revenue Divisional Office,

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Madurai.

3.The Tahsildar,

Melur Taluk Office, Madurai District.

4.V.Karuppu

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 3 herein to transfer the patta from the original owner to the petitioner husband's name (Gunasekaran) and to effect the necessary changes in all the revenue records in respect of the house property comprised in S.No.264/12 B 1 situated at Kottampatti Village, Melur Taluk, Madurai District and consequently forbearing the respondents 1 to 3 from in any manner interfering with the peaceful possession and enjoyment of the petitioner property comprised in Survey No.264/12 B 1 situated at Kottampatti, Melur Taluk, Madurai District.

For Petitioner : Mr.C.Jeganathan

For R1 to R3 : Mr.P.Thilak Kumar

Government Pleader

COMMON ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

These Writ Petitions have been filed for issuance of Writ of



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Mandamus, directing the respondents 1 to 3 to transfer the patta from the name of the original owner to the petitioner's name / the petitioner's husband's name and to effect necessary changes in all the revenue records in respect of the subject property and consequently, forbearing the respondents 1 to 3 from in any manner interfering with the peaceful possession and enjoyment of the petitioners' over the subject property.

2.The petitioners claim that the Survey No.264/12B at Kottampatti Village, Melur Taluk, Madurai District, was originally classified as Water Channel in the revenue records. Thereafter, during the year 1968, it was subdivided as Survey No.264/12B1 and 264/12B2. In the revenue records, Survey No.264/12B1 was classified as Gram Natham and Survey No.264/12B2 was classified as a Kanmoi and a joint patta was issued to 42 persons in respect of Survey No.264/12B1. However, the entries relating to the aforesaid subdivisions were not made in the Survey Register, Adangal and the FMB. The houses of the petitioners are situated in Survey No.264/12B1. While so, the 4th respondent filed W.P(MD)No.3910/2017 seeking removal of encroachments in



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S.Nos.264/12 B, 247/1, 202, 263, despite knowing the aforesaid sub-divisions and obtained an order on 09.10.2017 for removal of encroachments. Pursuant thereto, though the 3rd respondent / Tahsildar issued notices under the Land Encroachment Act, 1905, to the petitioners treating them as encroachers, upon challenging the said notices by one of the petitioners namely, Ravichandran, vide W.P(MD)No.4425/2018, the 3rd respondent / Tahsildar was directed to enquire into the matter and then proceed further. Pursuant to the enquiry, the 3rd respondent, by order dated 10.07.2018, also recommended for issuance of patta to the petitioners on payment of cost of the land, but however, since the petitioners were already having patta, they only sought for transfer of patta in their names. In the meantime, the 2nd respondent / District Revenue Officer also passed an order dated 04.07.2018, directing the 3rd respondent to reflect the aforesaid sub-divisions to S.Nos.264/12 B 1 and S.Nos.264/12 B 2 in all the revenue records. Thereafter, the 4th respondent filed a Contempt Petition and then, filed another Writ Petition in W.P(MD)No.19299/2020, seeking to forbear the authorities from granting patta in respect of Survey No.264/12B and this Court directed for removal of encroachments on the basis of the order passed in



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W.P(MD)No.3910/2017 and also directed that in respect of the land which has been classified as water body, no patta shall be issued. It is the grievance of the petitioners that misconstruing the said order, the authorities failed to transfer the patta and also trying to dispossess the petitioners from their properties. Therefore, the petitioners submitted representations during the Jamabandhi conducted by the Tahsildar on 20.05.2019 and finding that no heed to it was paid, the petitioners have filed these Writ Petitions.

3.We have heard the learned counsel on both sides and perused the materials available on record.

4.Perusal of record shows that despite the order of the 2nd respondent/District Revenue Officer, Madurai, dated 04.07.2018, the 3rd respondent Tahsildar has not made necessary changes in all the revenue records as to the aforesaid sub-divisions which created confusion paving way to the 4th respondent to mislead the Court and obtain a favourable order. Thus, in order to give a quietus to the issue, we direct that the order of the 2nd respondent dated



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04.07.2018 should be implemented first, in letter and spirit, by making appropriate changes with regard to sub-divisions of S.Nos.264/12 B 1 and S.Nos.264/12 B 2 in all the revenue records. Thereafter, the authorities concerned shall conduct a survey of the lands in S.Nos.264/12 B 1 and S.Nos. 264/12 B 2 in the presence of all the parties concerned after giving due notice well in advance and demarcate the extent of the said survey numbers. As per the order of the 2nd respondent dated 04.07.2018, S.No.264/12 B 1 has been classified as water body and S.No.264/12 B 2 has been classified as grama natham. If the survey reflected that the petitioners are residing in Survey No.264/12B1, which has been admittedly classified as a Gram Natham, the authorities concerned shall consider the claim of the petitioners for transfer of patta and pass appropriate orders in accordance with law. However, if there is any encroachment in Survey No.264/12B1, the authorities concerned shall take necessary action for removal of the same, after giving sufficient opportunity to all the parties concerned and by following due process of law. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. Till such, the status-quo as on date shall be maintained.

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5. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] & [J.S.N.P., J.]

19.10.2022

(½)

Index : Yes / No

Internet : Yes / No

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