



W.P(MD)No.13394 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.13394 of 2014

and

M.P(MD)No.2 of 2014

1.Raja Mohamed
2.Syed Ammal

... Petitioners

Vs.

1.The District Revenue Officer,
Pudukkottai,
Pudukkottai District.

2.The Tahsildar,
Aranthangi Taluk,
Pudukkottai District.

3.Mohamed Mydeen

... 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 relating to the order of the first respondent in his proceedings in Na.Ka.No.2298/2013/D7, dated 04.03.2014 and quash the same as arbitrary and illegal and consequently directing the first and second respondents to grant joint patta in favour of the petitioners in respect of S.F.No.254/4B1 and S.F.No.254/4B2 of Mangalanadu Village,



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Aranthangi Taluk, Pudukkottai District.

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For Petitioners : M/s.K.Baalasundharam
For R-1 & R-2 : M/s.M.Lingadurai
Special Government Pleader
For R-3 : M/s.N.Balakrishnan

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent herein, under which, patta standing in the name of the writ petitioners was transferred in the name of the third respondent herein. Pending writ petition, the second petitioner had filed O.S.No.138 of 2018 before the District Munsif Court, Aranthangi for the relief of permanent injunction as against the third respondent herein. Survey No.254/4B1 was the subject matter of the said suit. The third respondent herein was the sole defendant in the said suit. Since the third respondent had not appeared, an exparte decree has been granted in favour of the second petitioner herein on 16.07.2020. So far the said exparte decree has not been set aside.



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2. According to the learned Counsel for the third respondent herein he has taken steps to set aside the exparte decree. However, no records have been placed before this Court. It could be seen from the said exparte decree, the suit was restricted only to the survey No.254/4B1 and it does not cover survey No.254/4B2. Even as per the impugned order, Survey No.254/4B2 has been classified as a "road margin".

3. In view of the above said facts, this Court passes the following order:

"(i) The order impugned in the writ petition is set aside and the matter is remitted back to the file of the first respondent herein.

(ii) The first respondent shall conduct a fresh enquiry, in the light of the decree in O.S.No.138 of 2018, dated 16.07.2020. The said enquiry shall be restricted only with regard to the survey No.254/4B1, which was the subject matter in O.S.No.138 of 2018. The first respondent shall conduct an enquiry, after giving due opportunity to the petitioners and the third respondent herein.



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(iii) In case if the third respondent had set aside the said exparte decree, the said fact may also be brought to the notice of the first respondent herein.

(iv) In case, if the third respondent succeeds before the civil Court, the revenue authorities are duty bound to mutate the revenue records in favour of the person in whose favour civil Court has passed the decree."

4. With the above said observations, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

26.10.2022

Index : Yes / No
Internet : Yes / No
btr



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Pudukkottai District.
- 2.The Tahsildar,
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R.VIJAYAKUMAR, J.

btr

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26.10.2022