



W.P(MD)No.9220 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.9220 and 19092 of 2015

W.P(MD).No.20566 of 2014

and M.P(MD).Nos.1 and 2 of 2015

and M.P(MD).Nos.1,2 and 3 of 2014

W.P(MD).No.9220 of 2015

Maylagan

... Petitioner

Vs.

1.The Additional Chief Secretary/Commissioner
of Land Administration,
Chepauk, Chennai 600 005.

2.The District Revenue Officer,
Madurai District, Collectorate Complex,
Madurai.

3.The Revenue Divisional Officer,
Madurai District,
Collectorate Complex, Madurai.

4.Sourastra Club,
rep., by its Secretary,
P.K.Mothilal

5.Muthaiah

... Respondents

(R5 is impleaded vide order of this Court dated 28.07.2022 in
W.M.P(MD).No.3053 of 2022 in W.P(MD).No.9220 of 2015)



W.P(MD)No.9220 of 2015

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the proceedings of the impugned order in Ref: K4/35687/2014 dated 29.05.2015 on the file of the first respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.N.Muthuvijayan (for R1 to R3)
Special Government Pleader
Mr.S.Ramesh (for R4)
Mr.S.Rajamanickam (for R5)

W.P(MD).No.19092 of 2015

P.K.Mothilal

... Petitioner

Vs.

1.The Additional Chief Secretary/Commissioner
of Land Administration,
Chepauk, Chennai 600 005.

2.The District Revenue Officer,
Madurai District, Collectorate Complex,
Madurai.

3.The Revenue Divisional Officer,
Madurai District,
Collectorate Complex, Madurai.

4.The Tahsildar,
Taluk Office, Madurai South,
Madurai.

5.Mayalagan

... Respondents



W.P(MD)No.9220 of 2015

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in Ref.K4/35687/2014 dated 29.05.2015 on the file of the first respondent and quash the particular limited portion of remitting the proceedings to District Revenue Officer, Madurai for passing orders after affording opportunity to all the parties concerned expeditiously, as illegal.

For Petitioner : Mr.S.Ramesh
For Respondents : Mr.N.Muthuvijayan (for R1 to R4)
Special Government Pleader
Mr.G.Prabhurajadurai (for R5)

W.P(MD).No.20566 of 2014

P.K.Mothilal

... Petitioner

Vs.

1.The District Revenue Officer,
Madurai District, Collectorate Complex,
Madurai.

5.The Revenue Divisional Officer,
Madurai District,
Collectorate Complex, Madurai.

3.Mayalagan

4.Muthaiah

... Respondents

(R4 is impeaded vide order of this Court in W.M.P(MD).No.3131 of 2022 in W.P(MD).No.20566 of 2014, dated 28.07.2022)



W.P(MD)No.9220 of 2015

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in Na.Ka.No.G2/50795/2013 dated 26.11.2014 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.S.Ramesh
For Respondents : Mr.N.Muthuvijayan (for R1 to R3)
Special Government Pleader
Mr.G.Prabhurajadurai (for R4)
Mr.S.Rajamanickam (For R5)

COMMON ORDER

W.P(MD).No.9220 of 2015 has been filed challenging an order passed by the first respondent herein, under which the order of the second respondent refusing patta in favour of the fourth respondent was reversed and thereafter, the first respondent has proceeded to remit the matter back to the second respondent.

2.According to the learned counsel for the petitioner, the petitioner had submitted an application on 24.12.2012 before the third respondent herein requesting him to cancel the patta for T.S.No.102, which was standing in the name of the fourth respondent. The third respondent by its order in June-2013 has passed an order accepting the request of the writ petitioner and cancelled the patta granted in favour of



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the fourth respondent club. This order was challenged by the fourth respondent club before the second respondent herein. The second respondent by its order dated 26.11.2014 has passed an order confirming the order passed by the third respondent herein. This order was challenged by the fourth respondent club before the first respondent. The first respondent by its order, dated 29.05.2015 had set aside all the findings of the original as well as the appellate authority and thereafter, arrived at a finding that the fourth respondent club is entitled to the patta for T.S.No.102. However, the first respondent had remitted the matter back to the second respondent herein for fresh consideration. This order is under challenge in the present writ petition.

3.The main contention of the learned counsel for the petitioner is that the patta standing in the name of the fourth respondent club, was cancelled by the third respondent on 24.12.2012. However, without issuing any notice to the writ petitioner, the first respondent, only after hearing the fourth respondent club, has proceeded to set aside all the findings of the original as well as the appellate authority and thereafter, remitted the matter back to the second respondent herein. Hence, the order impugned in the writ petition is in violation of principles of natural



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justice and he seeks to set aside the order of the first respondent herein.

He further submits that the civil suit in O.S.No.60 of 2014 is pending on the file of the Additional District Munsif, Madurai, which has been dismissed for default and the restoration proceedings are pending.

4.I have perused the order passed by the first respondent on 29.05.2015. The perusal of the order does not indicate that at any point of time the writ petitioner was issued with any notice or heard before passing the impugned order. However, a copy of the order has been marked to the writ petitioner. Hence, it is clear that the order impugned in the writ petition has been passed without hearing the writ petitioner.

5.In view of the aforesaid fact, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the first respondent herein for fresh consideration after giving due opportunity to the writ petitioner and the fourth respondent club and pass orders on merits and in accordance with law. The said exercise shall be completed within a period of **twelve(12) weeks** from the date of receipt of a copy of this order. Accordingly, **W.P(MD).No.9220 of 2015** stands **allowed**.



W.P(MD)No.9220 of 2015

6.W.P(MD).No.19092 of 2015 has been filed by the fourth

respondent club challenging the order of the first respondent herein.

According to the learned counsel for the petitioner, when the first respondent has decided the issue in favour of the fourth respondent club, thereafter, ought not to have remitted the matter for fresh consideration to the second respondent. Patta should have been granted in favour of the fourth respondent club for T.S.No.102.

7.However, the order passed by the first respondent has been set aside by this Court in W.P(MD).No.9220 of 2015. Hence, no further orders are required to be passed in the petition. Accordingly, **W.P(MD).No.19092 of 2015 is closed.**

8.W.P(MD).No.20566 of 2014 has been filed by the fourth respondent club challenging the order passed by District Revenue Officer, dated 26.11.2014. As against the same order, the fourth respondent club has chosen to file a revision before the first respondent. The first respondent has also proceeded to pass an order on 29.05.2015. When the petitioner has already approached the higher forum and an order has also been passed by the first respondent, the petitioner cannot



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thereafter challenge the order passed by the District Revenue Officer on a later point of time. In W.P(MD).No.9220 of 2015, this Court has already set aside the order passed by the first respondent herein and has remitted the matter back to the first respondent. When this Court had directed the first respondent to reconsider the issue, the question of setting aside the order of the District Revenue Officer does not arise. In such view of the matter, no further orders are required in the petition. Accordingly, **W.P(MD).No.20566 of 2014 is closed.**

9.In view of the orders passed in W.P(MD).No.9220 of 2015, the first respondent is directed to proceed further as per the directions issued supra. The parties are at liberty to raise all the issues before the first respondent. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.08.2022

Index : Yes / No
Internet : Yes / No
Rmk

To

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Taluk Office, Madurai South,
Madurai.

R.VIJAYAKUMAR ,J.



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W.P(MD)No.9220 of 2015

Rmk

Order made in
W.P(MD)Nos.9220 and 19092 of 2015
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