



W.P.No.29763 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.29763 of 2023

1.A.Arumugam
2.S.Arumugam

...Petitioners

Vs

1. The District Collector,
Chennai District, Chennai.
2. The District Revenue Officer,
Chennai District.
Chennai.
3. The Revenue Divisional Officer,
Central Chennai Division,
Chennai District, Chennai.
4. The Tahsildar,
Maduravoil Taluk,
Chennai District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of



W.P.No.29763 of 2022

the 2nd respondent pertaining to the impugned order in Na.Ka.No.J14/29704/2019 dated 01.08.2022 and quash the same and consequently direct the respondents to issue patta in Survey No.103/2 for extent of 0.14 cents situated at Nolambur Village, SRO Sembium, Chennai District in favour of the petitioners based on their representation dated 18.02.2019.

For Petitioners : Mrs.Narmadha Sampath
for Mr.K.T.S.Sivakumar

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
For R.1 to R.4

ORDER

Heard Mrs.Narmadha Sampath, learned counsel for the petitioners and Mr.Yogesh Kannadasan, learned Special Government Pleader for the respondents.

2. The petitioners herein were the initial owners of the property in Survey No.103/2 measuring 0.70 cents situated Nolambur Village, SRO, Sembium, Chennai and after having sold a portion of the said property,



W.P.No.29763 of 2022

they claim to have retained the title over 0.14 cents of the land in the same survey number.

3. The fourth respondent herein had sent recommendations to the third respondent herein on 25.02.2019 and 09.12.2019 for issuance of patta in favour of these petitioners for an extent of 0.140 cents. Through the impugned order of the District Revenue Officer/second respondent dated 01.08.2022, the recommendations were disregarded and the petitioners' request for grant of patta has been rejected on the ground that the subject lands were classified as “ Manthaiveli Promboke”, which is a Government Promboke. Challenging the said order dated 01.08.2022 of the District Revenue Officer, the present writ petition has been filed.

4. Learned counsel for the petitioners submits that when the impugned order was passed, no opportunity was given to them and that recommendations of the Tahsildar/fourth respondent herein have also not been taken into account and therefore, the impugned order is not only a



W.P.No.29763 of 2022

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non-speaking order, but also in violation of the principles of natural justice.

5. On the contrary, learned Special Government Pleader placed reliance on the averments made in the impugned order and submitted that as per the revenue records, the lands that are claimed by the petitioner, are classified as “Manthaiveli Promboke” and therefore, the petitioners would not be entitled for grant of patta. With this submission, the learned Special Government Pleader submits that there are no infirmities in the impugned order.

6. On a perusal of the records produced before this Court, it is seen that earlier, The Tahsildar/fourth respondent herein had acted upon the representation made by the petitioners herein and recommended for grant of patta in their favour in connection with Survey No.103/2 for an extent of 0.14 cents situated at Nolambur Village, SRO Sembium, Chennai District. Such recommendations appear to be favourable



W.P.No.29763 of 2022

recommendations on 25.02.2019 and 09.12.2019. However, such recommendations were ignored by the District Revenue Officer without assigning any reasons and rejected the petitioners' claim only on the ground that the land is classified as “Manthaiveli Promboke”. A perusal of the impugned order of the District Revenue Officer would also reveal that the petitioners' claim on their entitlement for grant of patta have also not been addressed.

7. It is the specific case of the learned counsel for the petitioners that the order itself was passed behind their back. Learned Special Government Pleader, however, submits that an opportunity was extended to the petitioners prior to the order being passed. If the submission of the learned Special Government Pleader is to be taken on its face value, the same requires to be reflected in the impugned order. Not only the District Revenue Officer failed to refer to the petitioners' representation in the impugned order, but has also not addressed the objections raised during the course of enquiry, where he alleged to have been given an opportunity



W.P.No.29763 of 2022

to the petitioners. In the absence of the same, this Court is of the view that the petitioners were totally kept at dark at the time of passing of the order.

8. This apart, when the Tahsildar had earlier made two favourable recommendations dated 25.02.2019 and 09.12.2019, there was a duty cast upon the District Revenue Officer to address such recommendations and assign reasons for deviating from such recommendations. This procedure is also conspicuously absent in the impugned order. Thus, the impugned order is both a non-speaking order, as well as in violation of the principles of natural justice and hence, illegal.

9. In the light of the above findings, the impugned order dated 01.08.2022 passed by the 2nd respondent herein is quashed and the matter is remitted back to the second respondent for fresh consideration. The second respondent shall issue prior notices to the petitioners and any other person, who may be interested in the subject property, for the



W.P.No.29763 of 2022

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purpose of conducting an enquiry in connection with the petitioners' representation dated 18.02.2019, seeking for issuance of patta in connection with the subject property comprised in Survey No.103/2 for extent of 0.14 cents situated at Nolambur Village, SRO Sembium, Chennai District and after extending such opportunity, shall pass appropriate orders, by addressing all the objections raised by the petitioners, as well as the earlier recommendations of the Tahsildar dated 25.02.2019 and 09.12.2019. Such orders shall be passed within a period of two months from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is partly allowed. No costs.

23.03.2023

Index:Yes/No
Speaking order/Non-speaking order
sr



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W.P.No.29763 of 2022

M.S.RAMESH,J.

SR

To

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W.P.No.29763 of 2022

23.03.2023