



W.P.(MD)No.500 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.500 of 2020 &
W.M.P.(MD)No.376 of 2020

1.S.Leon Jesurethnam
2.S.Mary Stella Boy
3.S.Beatrice Mary
4.S.Jecintha Jeya Chandra
5.Rev.Sr.Ipheginia Mary
6.D.David Terry Singh
7.D.Annie Baselet Sudha

... Petitioners

Vs.

1.The Sub Collector,
Nagercoil.
2.Corporation of Nagercoil,
Nagercoil.
Rep. by its Commissioner.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records from the office of the first respondent in proceedings No.AA4/3139/2016 dated 26.08.2019 and quash the same.



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For Petitioners : Mr.Y.Prakash

For Respondents : Mr.A.Sivanupandian,
Government Advocate for R1

Mr.P.Athimoolapandian for R2

ORDER

The above writ petition is filed for a writ of certiorari calling for the records of the first respondent in proceedings No.AA4/3139/2016 dated 26.08.2019 and quash the same.

2. The primary ground on which the order is sought to be quashed is that the order has been passed without issuing notice to the petitioners and without giving them any opportunity of putting across their contention.

3. The facts in brief are as follows.

3.1. The petitioners would submit that there was a civil dispute between their grandmother and one Lilly Mary Grace Francis and the



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second respondent herein, in respect of which two suits in O.S.No.3 of 1887 and O.S.No.380 of 1887 were filed on the file of the Principal District Munsif, Nagercoil, by the petitioner's ancestors and Lilly Mary Grace Francis respectively. The suit in O.S.No.3 of 1887 has been decreed in favour of the plaintiffs therein who are none else than the predecessors of the petitioners and the suit in O.S.No.380 of 1997 was dismissed. The right of the petitioners has been confirmed by the dismissal of the appeal suits in A.S.Nos.100 of 1996 and 60 of 1996. The Second Appeal filed by the respondents had also ended in dismissal.

3.2. After the disposal of the suits, the petitioners had applied for patta to the Tahsildar who is the competent Authority to issue patta in their favour. The Tahsildar, in turn, by proceedings dated 09.06.2016 recommended the Revenue Divisional Officer, Nagercoil to grant patta in the petitioners' name. However, patta was not issued to the petitioners. Hence the petitioners approached the first respondent for issuance of patta. The first respondent had sent a communication directing the petitioners to submit the documents before him. After the receipt of



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those documents, the first respondent has passed the impugned order without considering the proceedings of the Tahsildar who is the competent Authority to grant patta.

4. The first respondent has filed a counter *inter alia* contending that the suit property related to the above suits is classified as 'Kinaru Poramboke' as per the village records.. It is their contention that the Tahsildar has not taken into account the above classification. Therefore, the first respondent has been forced to pass the impugned order.

5. As rightly pointed out by the petitioners, it is only the Tahsildar who is competent Authority to issue patta. The first respondent does not have the jurisdiction to do so. That apart, in the earlier proceedings, in the suits, the Commissioner, Corporation of Nagercoil was the defendant and had raised the very same issue that the suit property is Government Poramboke and well. This contention has been rejected and the civil court has clearly found that the property in question belongs to the predecessors of the petitioners herein. In the circumstances, the order



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passed by the first respondent is without jurisdiction and it is liable to be set aside.

6. The writ petition is allowed. The order passed by the first respondent in proceedings No.AA4/3139/2016 dated 26.08.2019 is hereby set aside. Considering the fact that the petitioners have civil court decree in their favour, the Tahsildar shall proceed to issue patta to the petitioners within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

06.04.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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To

1.The Sub Collector, Nagercoil.

2.The Commissioner,
Corporation of Nagercoil, Nagercoil.



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P.T.ASHA, J.

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