



W.P.(MD)No.15151 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.01.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.15151 of 2013

and

M.P.(MD).Nos.1 to 3 of 2013

P.Shajahan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Madurai,
Collectorate Buildings,
Madurai 20.

2.The Tahsildar,
Melur Taluk,
Madurai Road, Melur,
Madurai District.

3.Duraipandi

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.3518/2013/C dated 06.07.2013 and quash the same on the ground of violation of principles of natural justice and want of jurisdiction and



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consequently direct the respondent 1 and 2 to drop all further proceedings pertaining to transfer of patta in favour of the respondent No.3.

For Petitioner :Mr.R.Aravindan

For Respondents :Mrs.D.Farjana Ghoushia
Special Government Pleader for R1 & R2
:Mr.R.Narayanan for R3

ORDER

The learned counsel for the petitioner submitted that the writ petition has been filed challenging the order passed by the 1st respondent herein, cancelling the patta in respect of Survey No.244/24B, which has been challenged by the petitioner, wherein the Revenue Divisional Officer had passed orders in modifying the extent of the land held by the petitioner in Survey No.599/24 bearing patta No.848. This, according to him, has been made by the Revenue Divisional Officer without issuing any notice to him. Hence, he would contend that the order passed impugned in this writ petition has to be interfered with as there is a violation of principle of natural justice.



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2. Countering his arguments, the learned counsel for the 3rd respondent stated that the petitioner was issued with a notice by the 2nd respondent to appear before him, which was held on 23.06.2013. He would further submit that the Revenue Divisional Officer had passed orders based on a report submitted by the 2nd respondent herein, pursuant to the enquiry notice dated 22.03.2013.

3. The learned Special Government Pleader would also submit that there is no error in the order passed by the 1st respondent as the petitioner has been given an opportunity in respect of the dispute by the 2nd respondent.

4. I have considered the rival submissions made by the learned counsel appearing on either side.

5. A perusal of the order impugned in the writ petition does not show that any notice has been given to the petitioner herein. The reliance placed upon in the enquiry conducted by the 2nd respondent would not also



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support the arguments made by the learned counsel for the respondents, for the reasons that such report had not been provided to the petitioner to assail it, much more, when the Revenue Divisional Officer was the authority to conduct proceedings, it is for him to give an opportunity of hearing to the respective parties, which responsibility cannot be delegated to another officer. Hence, in my view, the order impugned has been made in violation of principles of natural justice.

6. In the light of the above observations, the order made by the 1st respondent dated 06.07.2013, in respect of Survey Nos.599/24B and 599/9 alone, is set aside. The 1st respondent is directed to conduct fresh enquiry and the 1st respondent is directed to issue appropriate notice to all parties concerned and thereafter, after affording an opportunity to the respective parties, shall pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



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7. Accordingly, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.01.2023

Index : Yes / No
Speaking Order/Non Speaking Order
sbm

To

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K.KUMARESH BABU, J.

sbn

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