



W.P.(MD)No.2301 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.10.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD)No.2301 of 2021

and

W.M.P.(MD)Nos.1913 of 2021 and 19436 of 2023

M.A.Ayyasamy

.. Petitioner

Versus

1.The District Revenue Officer /
Additional District Magistrate,
Madurai District, Madurai.

2. The Tahsildar,
Madurai North Taluk,
Madurai District.

3.M.Karuppanan

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings in Ni.Mu.No. 18855/2018/Ji5, dated 23.12.2020, and quash the same.

For Petitioner : Mr.B.Prahald Ravi

For R1 and R2 : Ms.D.Farjana Ghoushia
Special Government Pleader

For R3 : Mr.P.Balasubramanian



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ORDER

WEB COPY This Writ Petition has been filed challenging the impugned proceedings of the first respondent in Ni.Mu.No.18855/2018/Ji5, dated 23.12.2020.

2. The case of the petitioner is that the father of the petitioner and the third respondent are brothers and they are the sons of one Muthu Konar. The property in Survey No.80/7, measuring an extent of 62 cents out of 1 acre and 24 cents was owned by the said Muthu Konar. The remaining extent was owned by one Ponnammal. During the lifetime of Muthu Konar, the property was partitioned in the year 1959. As per the partition, 50 cents out of 62 cents was shown as "B" Schedule property and it was allotted in favour of the father of the petitioner and the remaining 12 cents was shown as common property for the usage of all the parties. In view of the same, the petitioner claims that his father was in possession and enjoyment of 50 cents in Survey No.80/7.

3. The further case of the petitioner is that his mother had purchased 62 cents in Survey No.80/7 through the registered sale deed, dated 24.11.1962, from Ponnammal. In view of the same, apart from 50 cents that was allotted to the father of the petitioner, the remaining 62 cents was also in possession and enjoyment of the petitioner and his family members.



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4. The petitioner further states that Patta was issued in favour of his mother for the entire extent of 103 cents by sub-dividing the property as Survey Nos.80/7B2 and 80/7A2.

5. The grievance of the petitioner is that the third respondent had made a representation before the first respondent stating that the Patta was wrongly issued in the name of the mother of the petitioner with respect to the subject property and therefore, he wanted the same to be cancelled and the Patta to be granted in his favour. The said representation made by the third respondent was taken up for consideration by the first respondent. The first respondent had directed the second respondent to conduct survey and to submit a report and accordingly, a report was also submitted by the second respondent before the first respondent. The petitioner came to know about the proceedings initiated by the first respondent and hence, a representation was made by the petitioner on 02.03.2018, seeking for some time and to afford an opportunity. The brother of the petitioner also filed his written objections, dated 20.12.2019, by mentioning all the above said facts. According to the petitioner, the first respondent without taking into consideration the stand taken by the petitioner and his brother and without affording any opportunity to the petitioner, proceeded to issue the impugned proceedings, dated 23.12.2020 and thereby, Patta was directed to be restored in the names of



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Ayyanan and Karuppannan. Aggrieved by the same, the present Writ Petition has been filed before this Court.

6. Heard the learned counsel appearing for the parties.

7. On carefully reading the impugned proceedings of the first respondent, it is seen that neither the first respondent has taken into consideration the objections made by the petitioner and his brother, nor did the first respondent afford any opportunity to the petitioner. The petitioner certainly had materials to oppose the claim made by the third respondent and this should have been taken into consideration by the first respondent. The first respondent has proceeded to take into consideration the report of the Tahsildar and had passed the order, by restoring the Patta in the names of Ayyanan and Karuppannan and thereby, cancelling the earlier Patta, which was issued in the name of the mother of the petitioner.

8. The impugned order passed by the first respondent suffers from lack of reasoning and also it is vitiated by non-compliance of the principles of natural justice. On these grounds, this Court is inclined to interfere with the proceedings of the first respondent and accordingly, the same is hereby set aside/quashed.



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9. The matter is remanded back to the file of the first respondent and the first respondent is directed to issue notice to the petitioner and the third respondent. The first respondent shall afford an opportunity to the parties to submit all the documents and they shall also be heard and thereafter, final orders shall be passed by the first respondent in accordance with law. This process shall be completed by the first respondent within a period of three months from the date of receipt of a copy of this order.

10. In the result, this Writ Petition is allowed with the above directions.

No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
smn2

13.10.2023

To

1.The District Revenue Officer /
Additional District Magistrate,
Madurai District, Madurai.

2. The Tahsildar,
Madurai North Taluk,
Madurai District.



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