



W.P.(MD) No.7191 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.7191 of 2020

and

W.M.P.(MD) Nos.6623 and 6624 of 2020

and

W.M.P.(MD) No.32 of 2022

Jamal Mohamed

.. Petitioner

Vs.

1.The District Revenue Officer cum
Additional District Magistrate,
Trichy, Trichy District.

2.The Revenue Divisional Officer,
Srirengam,
Trichy, Trichy District.

3.The Tahsildar,
Marungapuri Taluk,
Trichy District.

4.Jamal Mohammed

5.T.Santhi,
The District Revenue Officer cum
Additional District Magistrate,
Trichy District.

.. Respondents



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent namely the fifth respondent in her proceedings in Mu.Mu.A5/21948/2018 dated 23.03.2020 and quash the same and consequently direct the third respondent to restore the patta in respect of New Pula No.682/1 measuring about 0.0078 square meter in favour of the petitioner and his brothers and sister in the light of the order passed by the second respondent dated 23.08.2018 within a time frame as fixed by this Court.

For Petitioner : Mr.S.Rajasekar
for Mr.B.Prahalad Ravi

For RR1 to 3 : Mr.D.Ghandiraj
Special Government Pleader

For R4 : Mr.T.Vadivelan

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus, calling for the records of the first respondent dated 23.03.2020, quash the same and direct the third respondent to restore the patta in favour of the petitioner and his siblings in the light of the order passed by the second respondent on 23.08.2018.



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2. It is the petitioner's case that the right of the petitioner and his brother Gulam Mohaideen has been declared in respect of the property comprised in S.No.682/1 in O.S.No.169 of 2000 filed by one Abdul Hameed on the file of the District Munsif's Court, Manapparai for declaration and consequential injunction. The said Abdul Hameed had also preferred an appeal in A.S.No.153 of 2004 on the file of the Sub Court, Trichy, which was also dismissed. Having lost in the suit, Abdul Hameed had set up his brother-in-law one Jamal Mohammed, who is the fourth respondent in this writ petition, to file a writ petition in W.P.No. 15620 of 2017 to remove the alleged encroachment in Old S.No.261/2, New S.F.No.682/1, Thuvarankurichi Village, Marungapuri Taluk, Trichy District. The petitioner was arrayed as the fourth respondent therein. By order dated 05.09.2017, this Court had directed the third respondent to consider the representation of the fourth respondent within a period of three months and pass orders on merits and in accordance with law, after giving opportunity to all the parties. However, no opportunity was provided by the third respondent and to the shock and dismay of the



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petitioner, the second respondent had passed an order dated 05.12.2017 directing the third respondent to cancel the patta given to the petitioner in respect of S.F.No.682/1 and to classify the land as Sarkar poramboke, since the property has been wrongly classified as a Grama Natham on the basis of the report of the third respondent. However, these orders have been passed without notice to the petitioner. Thereafter, the petitioner was served with a notice by the Revenue Inspector dated 04.01.2018 asking the petitioner to show cause as to why the building constructed in S.F.No.682/1, Thuvrankurichi Village, should not be removed before 18.01.2017.

3. Challenging the said notice, the petitioner had filed a writ petition in W.P.No.417 of 2018 and by order dated 23.02.2018, this Court was pleased to set aside the impugned order and direct the third respondent to take appropriate action in accordance with law, after affording opportunity to the petitioner and pass a speaking order. Thereafter, no action was taken by the third respondent and the second respondent had passed an order dated 23.08.2018 directing the third



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respondent to issue a joint patta in favour of the petitioner and his siblings in respect of S.F.Nos.682/1, 682/2 and 681/4. Despite coming to know about the said order passed by the second respondent, the fourth respondent filed a review before the first respondent and the first respondent has passed the impugned order dated 23.03.2020 cancelling the order of the second respondent. The fourth respondent has already suffered an order against him and the said order has been passed without taking into account the judgment and decree in O.S.No.169 of 2000 by the District Munsif, Manapparai and the judgment in A.S.No.153 of 2004 of the Subordinate Judge, Tiruchirappalli as also the order in W.P.No.417 of 2018. Therefore, the present writ petition.

4. Heard the learned counsel on either side.

5. A perusal of the impugned order clearly shows that the authority has not considered the decree in O.S.No.169 of 2000 confirmed in A.S.No.153 of 2004. The impugned order also does not indicate that the first respondent has considered the objections of the petitioner. The



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order does not reflect the objections taken by the petitioner. In these circumstances, this Writ Petition is disposed of with a direction to the first respondent once again to consider the objection placed by the petitioner, in the light of the judgment and decree in O.S.No.169 of 2000 as also the order passed by the second respondent dated 23.08.2018, after giving opportunity to all the concerned and pass an order within a period of eight weeks from the date of receipt of a copy of this order. No costs. Connected Miscellaneous Petitions are closed.

23.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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P.T.ASHA, J.

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