



W.P.(MD) No.14481 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.7913 of 2020

and

W.M.P(MD) Nos.7379 and 7380 of 2020

V.Pandiyan

... Petitioner

Vs.

1.The District Revenue Officer,
Trichy,
Trichy District.

2.The Tahsildar,
Thottiyam Taluk,
Trichy District.

3.S.Govindaraju

4.Kannammal

5.Annavi

6.Ramesh

7.Govindharajan

8.Kannan

9.Murugesan



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10.Selvi

11.Durai @ Malayaladurai

12.Muthukannu

13.Kamukayi

... Respondents

(R4 to R13 are impleaded vide Court order dated 15.09.2020 in WMP(MD) No.8744 of 2020)

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent pertaining to its order bearing Ni.mu A6/11402/2019 dated 28.04.2020 and to quash the same and consequently forbearing the second respondent from including the name of the third respondent in the patta in respect of property in Survey No. 145A/3D, Seenivasan Nallur Village, Thottiyam Taluk, Trichy District.

For Petitioner	:	Mr.S.C.Herold Singh
For R1, & R2	:	Mr.D.Ghandiraj Special Government Pleader
For R3	:	Mr.G.Kandhavadivalan



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ORDER

This writ petition has been filed for issuance of writ of certiorarified mandamus to call for the records on the file of the first respondent pertaining to its order bearing Ni.mu A6/11402/2019, dated 28.04.2020 and to quash the same and consequently, forbearing the second respondent from including the name of the third respondent in the patta in respect of property in Survey No.145A/3D, Seenivasan Nallur Village, Thottiyam Taluk, Trichy District.

2. The factual matrix of the case is that the property comprised in Survey No.145A/3D, Seenivasan Nallur Village, Thottiyam Taluk, Trichy District, measuring 3.5 cents originally belonged to one P.Sankaranarayana Swamipillai @ PSN Swami Pillai. On 07.10.1974, the petitioner's mother, Kamukai Ammal had purchased the property from the said Swami Pillai for a valid consideration under a sale deed registered as document No.2478 of 1974 on the file of the Sub Registrar Office, Musiri, Trichy District. The revenue records were mutated in the name of Kamukai Ammal and patta bearing No.69 was also issued in her



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favour. The petitioner would further submit that he and his brothers are in joint enjoyment of the said property. He had constructed a small house in the said property and that his mother had died 29.03.1980 leaving behind her surviving 8 children as a legal heirs. The father of the petitioner had predeceased her. After demise of the petitioner's mother, her children have been in joint possession and enjoyment of the property.

3. This being the case, all of a sudden, the third respondent had started interfering with the petitioner's peaceful possession and enjoyment of the property and when enquiry was made, the petitioner came to learn that the third respondent was taking steps to include his name in the patta and had made an application to the first respondent to include his name in the patta, when the property stood in the name of the petitioner's mother.

4. It appears that on the basis of this application, the first respondent, without issuing any notice or affording an opportunity to the petitioner and his siblings, had proceeded to include the name of the third



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respondent along with petitioner's mother Kamukai Ammal. The impugned order had been passed without any application of mind on 28.04.2020. Therefore, the petitioner has approached this Court for the relief claimed therein.

5. The private respondent, namely, the third respondent who had made an application to the District Revenue Officer, Trichy was represented by a counsel. The respondents have not filed the counter.

6. Heard the learned counsel appearing on either side.

7. Since the revenue records had stood in the name of the petitioner's mother and as the statement was made that no notice had been issued prior to the inclusion of the third respondent's name in the patta, the learned Government Advocate was directed to produce the records relating to the proceedings under which the name change had been effected and to show proof of the notice in respect of the impugned order having been served on the petitioner or their deceased mother.



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8. The original records were produced. Even as per the revenue records, the property comprised in Survey No.145A/3D is belonging to Kamukai Ammal. 'A' Registrar also stood in her name. The file would indicate that summons in the proceedings before the first respondent, prior to the enquiry giving the date of hearing has not been served on the petitioner's mother. In fact, the petitioner's mother is not even arrayed as a party in the said notice. The first notice was issued giving the date of hearing as 15.05.2019. Thereafter, next hearing on 30.08.2019. The name of the Kamukai Ammal has been impleaded. It is to be born in mind that Kamukai Ammal had died as early on 29.03.1980 and therefore, the summons was being taken on a dead person. That apart, in the revenue records, even as early on 10.07.2020, the petitioner's mother was continued to be shown as the owner in respect of Survey No. 145A/3D.

9. These notices have not been served on the said Kamukai Ammal. Even the impugned order only shows the name of the deceased Kamukai Ammal. Since the impugned order has been passed



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without notice to the petitioner, who are admittedly in possession of the property and in whose mother's name the patta and other records would stand, the impugned order dated 28.04.2020 passed by the first respondent in Ni.Mu A6/11402/2019 is set aside and the matter is remitted back to the respondents 1 and 2 for fresh consideration. The respondents 1 and 2 shall pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order, after giving sufficient opportunities to all the parties to submit their documents and present their case.

10. With the above directions, this writ petition is allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

20.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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P.T.ASHA, J.

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To

- 1.The District Revenue Officer,
Trichy,
Trichy District.
- 2.The Tahsildar,
Thottiyam Taluk,
Trichy District.

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