



W.P(MD)No.8717 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.8717 of 2022

The.Pe.Na.Pethatechi Chettiyar

... Petitioner

Vs.

1.The District Revenue Officer
Sivagangai District,
Sivagangai.

2.R.Somasundaram
President,
11, Nagarathartharmaparipalanasabha Trust,
Old No.155-D,
Deivanayagi Nagar,
Ganapathi,
Coimbatore.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of order of the first Respondent in Mu.Mu.B1/15684/2017 dated 05.09.2017 and



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quash the same and consequently direct the first respondent to conduct proper enquiry of the petitioner's Revision Petition, dated on 26.05.2017.

For Petitioner : Mr.P.Muthusamy

For Respondent : Mr.J.Ashok, - for R1
Additional Government Pleader

No Appearance - for R2

ORDER

The writ petition has been filed in the nature of a certiorari calling for the records of the order of the first respondent/District Revenue Officer, Sivagangai in Mu.Mu.B1/15684/2017 dated 05.09.2017 and to quash the same and to direct the first respondent to conduct proper enquiry in the revision petition filed by the petitioner on 26.05.2017.

2. In the affidavit filed in support of the writ petition, the petitioner has claimed that he is a resident of Devakottai in Sivagangai District and has ancestral properties in Survey No.135/5 measuring



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0.033.0 hectares and in Survey No.277/1 measuring 0.22.40 hectares.

These properties, had been purchased by the grand-father of the petitioner, Pethaperumal Chettiyar by way of a registered document No.1357/1895, dated 23.10.1895. Thereafter, there have been various partitions made among the family members. There were also several encroachments made. The second respondent had also purchased a portion of the property. The petitioner had filed an application before the Revenue Divisional Officer, seeking patta, but it was dismissed. The petitioner had then filed a revision before the first respondent.

3. The petitioner had actually earlier filed a writ petition before this Court, questioning the order of the Revenue Divisional Officer. The petitioner was directed to file a regular Revision before the District Revenue Officer. The petitioner filed a revision before the first respondent / District Revenue Officer along with a delay on 26.05.2017. An application seeking to condone the delay was also filed.

4. The impugned order had however been passed without passing any orders in the application seeking to condone the delay, but



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rejecting the application on the ground of delay. The first respondent has an obligation to examine the reasons given for the delay and if the delay is condoned, then pass necessary orders. The first respondent has not passed an order with reasons. Any Quasi-Judicial Officer will necessarily have to pass orders giving reasons for coming to any particular conclusion.

5. In the case of *M/s. Kranti Associates Pvt. Ltd. & Another Vs. Sh. Masood Ahmed Khan & Others* reported in 2010 (9) SCC 496, it had been stated as follows in paragraph No.51 :

"51. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.



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d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions



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serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).



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n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

6. It is seen from the impugned order that no reasons have been given. The order is therefore set aside. The matter is remitted back to the first respondent to examine the issue afresh and also examine the reasons given for delay and also examine the order of the High Court



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whereby, permission was granted to the petitioner to file revision petition before first respondent. Let the first respondent pass necessary orders in accordance with law. The writ petition therefore, stands allowed. No costs.

08.03.2023

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

RM

To

1.The District Revenue Officer
Sivagangai District,
Sivagangai.



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C.V.KARTHIKEYAN, J.

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