



W.P.(MD) Nos.11545 and 7090 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) Nos.11545 and 7090 of 2020

and

W.M.P.(MD) Nos.10057 and 6528 of 2020

W.P.(MD) No.11545 of 2020:

P.Karuppiah

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

2.The Tahsildar,
Thiruppuavanam Taluk,
Sivagangai District.

.. Respondents

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 of the first respondent dated 04.08.2020 in Na.Ka.A2/3599/2019 and quash the same and consequently direct the first respondent to grant patta in favour of the petitioner in respect of land in S.No.331/40 in Veeranenthal Group, Odathur Village, Thiruppuvanam Taluk, Sivagangai District.



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W.P.(MD) No.7090 of 2020:

P.Karuppiah

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

2.The Tahsildar,
Thiruppuavanam Taluk,
Sivagangai District.

3.Irulayee Amman Temple,
Rep., by its Trustee,
Mr.M.Bose,
Odathur, Siruvanoor Post,
Narikudi via, Tirupuvanam Taluk,
Sivagangai District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus forbearing the respondents from taking any steps for dispossession of the petitioner from the property in Survey No.331/40, Veeranenthal Group, Odathur Village, Thiruppuvanam Taluk without following due process of law.

In both cases:

For Petitioner : Mr.J.Anandkumar

For Respondents : Mr.A.Sivanupandian
Government Advocate



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COMMON ORDER

1.1. W.P.(MD) No.11545 of 2020 has been filed for the issue of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent dated 04.08.2020 in Na.Ka.A2/3599/2019 and quash the same and consequently, direct the first respondent to grant patta in favour of the petitioner in respect of land in S.No.331/40 of Veeranenthal Group, Odathur Village, Thiruppuvanam Taluk, Sivagangai District.

1.2. W.P.(MD) No.7090 of 2020 has been filed for the issue of a Writ of Mandamus forbearing the respondents from taking any steps for dispossession of the petitioner from the property in Survey No.331/40, Veeranenthal Group, Odathur Village, Thiruppuvanam Taluk without following due process of law.

2. The facts briefly necessary for disposing of both the writ petitions are hereinbelow set out:

The lands comprised in the above survey number belongs to the petitioner. The lands were originally classified as “natham” and it is the



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case of the petitioner that his ancestors were in possession of the land from time immemorial and have developed the land. In addition to the lands, the petitioner has also purchased adjacent lands and has constructed a house and was living there. The petitioner would submit that he has been assessed to tax and has been paying the same without default. The petitioner would submit that he came to learn that there was a wrong entry in respect of his lands and immediately he had applied for expunging the said entry and to issue patta in his name. Pursuant to this application, the first respondent had directed the second respondent to conduct an enquiry and submit a report. The second respondent, after due enquiry and after getting instructions from the Village Administrative Officer, has submitted a report stating that the lands have been in possession of the petitioner and that he had constructed a house on the said property. The petitioner would further submit that in order to submit his application for issuance of patta, he had applied to the Collector and obtained copy of the SLR which also clearly showed the name of the petitioner's ancestor that is Periya Karuppa Thevar. It is with this document that the application had been submitted by the petitioner.



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3. Though a report was received from the second respondent, the first respondent by proceedings dated 29.08.2019, once again directed the second respondent to submit a detailed proposal with reference to the said property, as the land was classified as 'temple land' and also directed the second respondent to consider the viability of granting patta/assignment in the petitioner's favour. The petitioner would submit that while he was under the impression that he would be getting the corrected patta from the first respondent, all of a sudden, the second respondent had visited his property on 17.06.2020 and directed the petitioner to remove the fencing around the property. This when the application for grant of patta was pending. Therefore, the petitioner had filed W.P.(MD) No.7090 of 2020 for a mandamus forbearing the respondents from dispossessing the petitioner. While the said writ petition was pending, the first respondent has passed the impugned order dated 04.08.2020 in and by which the first respondent rejected the petitioner's request for grant of patta. Challenging this order the petitioner has come forward to file W.P.(MD) No.11545 of 2020.



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4. Since the patta had been cancelled, which is the subject matter of W.P.(MD) No.11545 of 2020, it is necessary to first deal with the same.

5. In the counter, the second respondent has himself admitted that earlier the properties in Veeranenthal Group were all classified as 'Natham' lands and were taken up for issuance of Natham patta under the Natham Settlement Scheme. Every field in the area has been inspected by the Field Surveyors who have noted the names of the owners. With reference to the lands in S.No.331/40, which is the land in question, it was noted at the time of inspection that the names of the owners have been noted as Periyasami, son of Periyakaruppathevar and Periyasamy, son of Gurusamy Thevar. It is during the second inspection that the names have been deleted and S.No.331/40 has been classified as “Irulayi Amman Kovil”. He would further submit that no appeal has been filed against this order and after 28 years, the present writ petition has been filed. However, there is nothing to show that the persons who had been



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recognised as owners during the original inspection have been issued with a notice before the classification has been changed. Therefore, the original occupants have not been given a chance to put across their case.

6. Further, in the impugned order also, there is nothing to show that the petitioner has been heard and the order appears to have been passed based on the objections filed by one P.Muthuramalingam. In these circumstances, the impugned order passed without hearing the petitioner cannot be sustained and consequently, the same is set aside and W.P.(MD) No.11545 of 2020 is allowed and the matter is remitted back to the first respondent to consider the petitioner's application afresh, who shall consider the same and pass orders within a period of six weeks from the date of receipt of a copy of this order.

7. In the light of W.P.(MD) No.11545 of 2020 being allowed, W.P. (MD) No.7040 of 2020 is disposed of with a direction that the respondents shall not disturb the petitioner's possession till the disposal of the application of the petitioner by the first respondent.



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8. In the result,

(i) W.P.(MD) No.11545 of 2020 is allowed. The impugned order dated 04.08.2020 is set aside and the matter is remitted back to the first respondent to consider the petitioner's application afresh, who shall consider the same and pass orders within a period of six weeks from the date of receipt of a copy of this order;

(ii) W.P.(MD) No.7090 of 2020 is disposed of with a direction that the respondents shall not disturb the petitioner's possession till the disposal of the application of the petitioner by the first respondent;

(iii) There shall be no order as to costs; and

(iv) Connected miscellaneous petitions are closed.

09.06.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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Sivagangai District.
- 2.The Tahsildar,
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P.T.ASHA, J.

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