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W.P.(MD)No.15676 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15676 of 2021
and
W.M.P.(MD)No.12622 of 2021

1.Katchammal
2.Kanagavalli
3.Chellamma
4.Selvaraj
5.Sri Murugan

... Petitioners

vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Usilampatti Division, Madurai.

3.K.V.Rajkumar



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4.The Thasildar,
Peraiyur Taluk,
Madurai District.

5.Muthupandi

6.Mohan

7.Ochu

8.Murugan

9.Pandi

10.JeyaBharathi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records in Pa.Mu.No.5185/2020/m2, dated 09.08.2021, on the file of Revenue Divisional Officer, Usilampatti Division and to quash the same.

For Petitioners : Mr.J.Gunaseelanmuthiah

For R1, 2 and 4 : Mr.A.K.Manikkam

Special Government Pleader

For R6 : Mr.A.Rajaram



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ORDER

This writ petition is filed for writ of Certiorari, to quash the records, dated 09.08.2021, on the file of Revenue Divisional Officer, Usilampatti Division.

2. Through the impugned order, the 2nd respondent passed an order cancelling the patta, which was standing in the name of the 1st petitioner's husband and granted patta to the respondents 5 to 10. The petitioners have challenged the impugned order on two grounds.

3. The first ground is that the impugned order was passed by the RDO, but the said RDO was already transferred on 07.06.2021, to Thanjavur as Personal Assistant to Collector. However, subsequently, the



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said order was cancelled and another order was passed on 13.07.2021 transferring as Personal Assistant (General) to District Collector, Madurai. When the RDO was transferred on 13.07.2021, but has passed an order on 09.08.2021, which means after transferring, the 2nd respondent has passed the impugned order.

4. However, the said contention of the petitioners was refuted by the respondents by stating that even though the order is passed on 13.07.2021, the 2nd respondent was not relieved from the said place and he was relieved only on 10.08.2021. Therefore, this Court is of the considered opinion that the order is passed before relieving order and the contention of the petitioners is rejected.

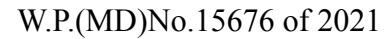


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5. The second contention raised by the petitioners is that as on the date of passing the impugned order, the 1st petitioner's husband died and the impugned order is passed against a dead person. It is seen from the records that the 1st petitioner's husband died on 22.04.2021 and the impugned order is passed on 09.08.2021. Therefore, admittedly, the impugned order is passed against the dead person. Hence, the impugned order is quashed.

6. It is stated by the respondents that the petitioners have preferred a petition before the DRO raising the same allegation. However, the DRO has not considered the second plea of petitioner that the order is passed against the dead person and passed an order on 26.11.2022. Since this Court is quashing the order passed by the RDO, the subsequent order



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S.SRIMATHY, J

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