



WP(MD)No.18799 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **18.10.2023**

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.18799 of 2021

and

W.M.P.(MD)Nos.15626 & 15628 of 2021

Mangleswari

...Petitioner

/Vs./

1.The Tahsildar,
Mudhukulathur Taluk,
Ramanathapuram District.

2.K.Durairaj

. ...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the order passed by the 1st respondent in Pa.Mu.B2/4013/2021 dated 16.08.2021, quash the same.

For Petitioner : Mr.R.Paranjothi

For Respondents : Mr.R.Ragavendran (R1)

Government Advocate

Mr.S.Sivathilakar (R2)



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ORDER

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This writ petition has been filed challenging the impugned proceedings of the first respondent dated 16.08.2021, wherein the first respondent had directed the patta to be transferred in the name of the second respondent with respect to the properties situated at S.Nos.78/1A, 78/1B, 78/1C, 78/1D, by taking into account the judgment and decree passed in A.S.No.56 of 2011 dated 19.06.2013.

2. Heard Mr.R.Paranjothi, learned counsel for the petitioner, Mr.R.Ragavendran, learned Government Advocate for the first respondent and Mr.S.Sivathilakar, learned counsel for the second respondent.

3. The case of the petitioner is that originally S.F.No.78/1 situated at Mudhukulathur Taluk, Ramanathapuram District measured an extent of 1 acre and 82 cents and it was purchased by virtue of a registered sale deed dated 22.02.1904. The subject property was subdivided as S.Nos.78/1A, 78/1B, 78/1C, 78/1D and the patta was also issued under UDR scheme in the name of the second respondent, one Velu Thevar and one Pandi Thevar. On coming to know of the same, the father of the petitioner and two others filed an appeal before the Revenue Divisional Officer, Paramakudi to cancel the patta. The



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Revenue Divisional Officer directed the parties to approach the Civil Court.

Aggrieved by the same, an appeal was filed before the District Revenue Officer, Ramanathapuram and the District Revenue Officer, Ramanathapuram, through proceedings dated 06.07.2006 directed the parties to approach the civil Court and to mutate the patta as per the original settlement records. In view of the same, patta was restored in the name of the grandmother of the petitioner, namely, Meenal @ Meenakshi.

4. The further case of the petitioner is that the second respondent had approached the first respondent and had managed to get the patta in his name with respect to S.Nos.78/1A, 78/1B, 78/1C, 78/1D and the first respondent had directed for the transfer of patta in favour of the second respondent through the impugned proceedings dated 16.08.2021. This has been put to challenge in the present writ petition.

5. The learned counsel for the petitioner mainly raised two grounds to assail the order passed by the first respondent. The first ground that was raised by the learned counsel for the petitioner is that this order was passed by the first respondent without putting the petitioner on notice and thereby there is violation of principles of natural justice. The second ground that was urged by



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the learned counsel for the petitioner is that the decree in A.S.No.56 of 2011 only covered survey number 78/1B and whereas the patta has been given for S.Nos.78/1A, 78/1B, 78/1C, 78/1D by relying upon this decree. It was therefore contended that the order passed by the first respondent is not in line with the decree that was passed in appeal.

6. The learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent submitted that the petitioner has the benefit of an alternate remedy to file an appeal before the Revenue Divisional Officer and therefore, they questioned the very maintainability of the writ petition before this Court.

7. It is true that the petitioner has a right of appeal before the Revenue Divisional Officer under the Tamil Nadu Patta Passbook Act, 1983. However, the alternate remedy is always not a bar to entertain a writ petition, more particularly where the order passed by the authorities is assailed on the ground of violation of principles of natural justice. On going through the order passed by the first respondent, it is seen that the petitioner has not been put on notice and the first respondent has straightaway passed the order by relying upon the decree passed in A.S.No.56 of 2011. Therefore, the order passed behind back of



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the petitioner can always be challenged by way of filing a writ petition. It is also seen from the records that the decree in AS No.56 of 2011 pertains to only S.No.78/1B. However, the first respondent has passed the order as if the decree covered S.Nos.78/1A, 78/1B, 78/1C, 78/1D, which on the face of it, is not correct.

8. In view of the above, this Court is inclined to interfere with the impugned proceedings of the first respondent in Pa.Mu.B2/4013/2021 dated 16.08.2021 and accordingly, the same is hereby quashed. The matter is remanded back to the file of the first respondent. The first respondent is directed to conduct an enquiry by putting the petitioner and the second respondent on notice and thereafter, a reasoned order shall be passed on its own merits and in accordance with law. This process shall be completed by the first respondent within a period of six weeks from the date of receipt of a copy of this order.

9. In the result, this writ petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

18.10.2023

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



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N.ANAND VENKATESH, J.

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TO:-

- 1.The Tahsildar,
Mudhukulathur Taluk,
Ramanathapuram District.

Order made in
W.P.(MD)No.18799 of 2021

Dated:
18.10.2023