



W.P.(MD)No.1161 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.1161 of 2014

and

MP(MD)No.1 of 2014

A.Panchammal

... Petitioner

versus

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The District Revenue Officer cum
Additional District Magistrate,
(Executive),
Sivagangai District,
Sivagangai.
3. The Revenue Divisional Officer,
Sivagangai.
4. The Tahsildar,
Sivagangai Taluk,
Sivagangai District.
5. R.Thothan



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6. R.Arumugam

7. P.R.Vairamuthu

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 2nd respondent in Na.Ka.P4-22648-2012, dated 30.08.2013, quash the same and direct the respondents 1 to 4 to restore the patta for the property bearing S.No.27/4 of Kayangulam Village, Sivagangai Taluk and District measuring 2 acres 3 cents in the name of the petitioner.

For Petitioner : Mr.M.Saravanan

For R1 to R4 : Mr.Veerakathiravan,
Additional Advocate General
assisted by
Mr.S.Shaji Bino,
Special Government Pleader

For R5 to R7 : No appearance

ORDER

The petitioner, who is a destitute woman, belongs to Schedule Caste Community. She was assigned with a land to an extent of 2 acres and 3 cents, in Survey No.27/4, at Kayangulam Village, Sivagangai



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Taluk and patta was also issued in her favour as Patta No.442 dated 27.10.1986. She claims that she was in possession of the property for more than 40 years and her name was also entered in the 'A' Register. While so, the District Revenue Officer, Sivagangai, by the order impugned in this writ petition, in Na.Ka.P4-22648-2012, dated 30.08.2013, cancelled the patta, which stood in the name of the petitioner, based on the recommendation of the Revenue Inspector, Periakottai and transferred the same to one Arumugam, S/o.Raman, who is the 6th respondent herein. As against that order, the petitioner has preferred this writ petition in the year 2014.

2. The learned counsel appearing for the petitioner made a specific allegation as against the 7th respondent herein, the then Deputy Tahsildar, Manamadurai Taluk, stating that at his instance, the Revenue Inspector, Periakottai, has recommended for transferring the patta in the name of the 6th respondent, on the application made by the 5th respondent. According to him, the 7th respondent is a close relative of



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the respondents 5 and 6. He also pointed out that the impugned order has been passed without issuing a notice to the petitioner and based on the recommendation of the Revenue Inspector, Periakottai, who is not having any authority to make such transfer. He also pointed out that the patta was transferred to the 6th respondent, based on the application of the 5th respondent.

3. This Court has entertained this writ petition on 23.01.2014 and has also granted an order of interim stay. Notice was also ordered to the respondents. The notice sent to the 6th respondent returned with an endorsement “expired” and the notice sent to the 7th respondent also returned with an endorsement “retired”. The 5th respondent received the notice, he has not entered his appearance. Though the court notice was served on the respondents 1 to 4 on 05.08.2016 and they were aware of the interim order passed by this Court, they have not chosen to file their response to this writ petition for more than eight years. For want of counter affidavit from the respondents 1 to 4, this writ petition



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could not be taken up for final hearing for the past eight years.

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4. Considering the nature of order and considering the manner in which the impugned order has been passed and also considering the fact that this writ petition is pending for the past eight years for want of response from the official respondents, this Court, by order dated 18.04.2023, passed an order directing the District Revenue Officer, Sivagangai, to appear before this Court and explain under what circumstances, the patta, which was granted in favour of the petitioner, was cancelled and that too without notice. Though sufficient opportunity was provided, the District Revenue Officer, Sivagangai, neither filed his counter affidavit nor appeared before this Court. Therefore, this Court, on 28.04.2023, passed further order for appearance of the District Revenue Officer, Sivagangai on 01.06.2023. Finally, the District Revenue Officer, Sivagangai, is present before this Court today and also filed a counter affidavit. Paragraph 9 of the counter affidavit is extracted as under:



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“9. I respectfully submit that as per records available in the office of the 2nd respondent herein, the survey No.27/4 to an extent of 2 acres and 3 cents of Kayangulam Village, Periakottai Firka in Sivagangai Taluk registered in UDR A Register in the name of the Writ Petitioner herein. I submit that the respondents 5th and 6th herein got patta transfer order from Revenue Dinspector, Periakottai in the name of the 6th respondent as per the RIPT order No.44/98 dated 17.10.1988. Further, the 6th respondent herein submitted a petition to the 2nd respondent herein requesting to entry the name of the 5th respondent herein in the village records as per the RIPT order dated 17.10.1988. The 2nd respondent herein ordered to carry out the changes in the name of 5th respondent in village records as per the order Roc.B4/22648/2012 dated 30.08.2013.”

5. The learned Additional Advocate General appearing for the respondents 1 to 4 submits that the records pertaining to RIPT order No.44/98 dated 17.10.1988 are not available in the office and therefore, they were not in a position to file their counter affidavit in time. In the



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absence of records, the officials were not in a position to explain under what circumstances the patta was transferred from the name of the petitioner to the 6th respondent.

6. Perusal of the impugned order reveals that on the application of the 5th respondent, the patta, which stood in the name of the petitioner, was transferred to the 6th respondent, admittedly, without affording an opportunity of hearing to the petitioner. The District Revenue Officer, Sivagangai, has also passed the impugned order on the recommendation of the Revenue Inspector, Periakottai, in RIPT No. 44/98 dated 17.10.1988. Admittedly, the records are not available in the office of the District Revenue Officer, Sivagangai. The petitioner has taken a specific stand that the respondents 5 and 6 are close relatives of the 7th respondent, the then Deputy Tahsildar of Manamadurai Taluk and at his instance, the then District Revenue Officer, Sivagangai, has transferred the patta in favour of the 6th respondent.



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7. Considering the facts and circumstances of the case and also considering the fact that the impugned order has been passed without providing an opportunity to the petitioner and without conducting any enquiry, the impugned order is liable to be set aside and accordingly, it is set aside.

8. In view of the conduct of the official respondents in not filing their counter affidavit for the past eight years, which made petitioner to wait for justice for the past eight years, this writ petition is allowed with cost of Rs.25,000/- (Rupees twenty five thousand), which has to be paid by the District Collector, Sivagangai, to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. The District Collector, Sivagangai, is permitted to recover the same from the 7th respondent under the Revenue Recovery Act. This Court expects that atleast hereafter, the Revenue Department will rectify the mistake, by changing the revenue records, after providing an



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opportunity of hearing to the legal heirs of the 6th respondent within a reasonable time. No costs. Consequently, connected miscellaneous petition is closed.

01.06.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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B.PUGALENDHI, J.

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