



W.P(MD)No.15259 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15259 of 2014

V.Pandianrajan

... Petitioner

Vs.

1.The District Collector,
Office of Collectorate,
Madurai District.

2.The District Revenue Officer,
Madurai District, Madurai.

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Madurai District, Madurai.

4.The Tahsildar,
Madurai East,
Madurai District,
Madurai.

5.S.Rajendran

6.S.Yoga Rajan

... Respondents

*(R5 & R6 are impleaded vide order dated
22.01.2015 in M.P.(MD)No.1 of 2014 in
W.P.(MD)No.15259 of 2014 by BRJ)*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondent Nos.1 to 4 to change patta in the name of the petitioner in Survey No.73/67 to an extent of 1.18500 Ares in Illangiendal, Puthuthamarai Patti (post), Madurai District and to effect necessary changes in Field Measurement Book (FMB) sketch within the time stipulated by this Court.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.N.Satheesh Kumar,
Addl. Government Pleader for R1 to R4.
Mr.J.Anandkumar for R6.

ORDER

Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 4 and the learned counsel for the sixth respondent.

2.The case of the petitioner is that the land comprised in S.No.73/67 measuring 0.18500 ares in Illangiendal, Puthuthamarai Patti



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Village, Madurai East Taluk should be mutated in his name. According to the petitioner, his brother / Rajan was the original pattadar. Rajan had sold the property in favour of one Chellapandian vide sale deed dated 21.08.2002. From the said Chellapandian, the petitioner had purchased the property 27.01.2010. The petitioner has been representing to the Tahsildar for mutation of patta since 2012. Since the petitioner's request was not considered, the present writ petition came to be filed.

3.When the matter was taken up final hearing, it was submitted that mutation had already been made on 18.04.2023 in favour of the petitioner in RTR No.1431 of 2023. In normal circumstances, this Court would have closed the writ petition as infructuous by recording this development.

4.However, there was stiff opposition from the learned Additional Government Pleader for the official respondents as well as the learned counsel for the sixth respondent. It is seen from the entries in the Natham Adangal Register that S.No.73/37 measuring around 12 cents has been classified as school. A panchayat school building is very much in



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existence even as on date. Whiles, the petitioner staked claim over the land comprised in S.No.73/67. The Assistant Section Officer, Madurai-20 issued proceedings in Nu.Mu.No.6574/96 dated 30.07.1996 calling upon the Special Tahsildar (Natham), Madurai North to issue proceedings in favour of the petitioner's brother / V.Rajan over an extent of 185 square metres in S.No.73/37 as he is residing therein. Pursuant to the said direction, the Special Tahsildar (Natham), Madurai North conducted enquiry and issued direction dated 04.04.1997 directing the Tahsildar, Madurai North to issue patta in favour of the petitioner's brother. Pursuant thereto in RT No.279/97-98 patta in favour of Rajan, the brother of the petitioner was issued in S.No.73/67 for 185 square meters. Though on record, mutation had already been effected in favour of the petitioner's brother and the petitioner's brother had sold the said property in favour of Chellapandian in the year 2002, the petitioner could not succeed in his efforts to get mutation in his favour after purchase of property from Chellapandian.

5.That was because the sixth respondent herein had been raising objection that the petitioner is attempting to encroach on the school



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property. The petitioner and his siblings filed O.S.No.191 of 2007 before the District Musnif Court, Madurai Taluk. The sixth respondent herein was shown as the first defendant in the said suit. The deceased fifth respondent was shown as the second defendant. The private respondents herein filed written statement controverting the claim putforth by the petitioner's family. The petitioner's brother was examined as P.W.1. As many as ten documents were marked. The pattas issued in favour of the petitioner's brother were marked as Exs.B1 and B2. The sixth respondent examined himself as D.W.1. Three other witnesses were examined on the side of the defendants. An Advocate Commissioner was appointed and his report and plan as well as the survey sketch were marked Exs.C1 to C3. After an elaborate consideration of the evidence on record, the learned Trial Munsif vide judgment dated 27.08.2014 rendered a categorical finding that there is no land corresponding to S.No.73/67 on ground. The Civil Court had declared that the property claimed by the petitioner under the aforesaid said pattas is non-existent. Aggrieved by the said judgment and decree, the petitioner filed A.S.No.28 of 2015 on the file of Sub Court, Madurai. The appeal suit is still pending.



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6. In this background, I fail to understand as to how mutation could have been made in favour of the petitioner in the Natham Adangal Register in April 2023, that too when the writ petition is pending. Of course, pendency of the writ petition will not tie the hands of the authorities from acting in the matter. But when the Civil Court has rendered a finding that the land said to correspond to S.No.73/67 is non-existent, the revenue authority could not act contrary to it. The Village Administrative Officer / Ms. Murugalakshmi is present in person. I posed a direct question to her as to how she made the mutation. The explanation given by the Village Administrative Officer does not convince me. It is obvious that even without conducting field inspection, the mutation had been made. I would have directed the District Collector, Madurai to take departmental action against the Village Administrative Officer. The Village Administrative Officer states that she has realized her mistake and that she would take immediate steps for cancelling the mutation made in favour of the petitioner.



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7.I refrain from issuing any direction to the first respondent to take action against the Village Administrative Officer in view of the undertaking now given before this Court. The Village Administrative Officer is warned to be careful in future. If any application for mutation of patta is made, field inspection must be conducted and all the relevant records must be verified. In this case, the Tahsildar, Madurai East Taluk had filed counter affidavit stating that the entry made in the Natham Register relating to S.No.73/67 was illegal. This was because the natham settlement scheme was closed in the year 1995 itself. Therefore, in the year 1996, the Special Tahsildar (Natham Settlement) could not have issued any direction. The Zonal Deputy Tahsildar, Madurai East Taluk as well as the Village Administrative Officer could not have acted contrary to the said stand taken in the counter affidavit filed before this Court. At this stage, the learned counsel for the petitioner states that he would work out his rights before the Civil Court in A.S.No.28 of 2015.

8.The matter cannot be left at that. The petitioner has to necessarily implead the Education Department as well as the District Collector, Madurai in the pending appeal suit. The First Appellate Court



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shall not take up the appeal suit for disposal unless the Education Department as well as the District Collector, Madurai are impleaded as respondents. Since the entire evidence is available before the First Appellate Court, it may not necessary to even remand the matter after they are impleaded.

9.This writ petition is disposed of accordingly. No costs.

07.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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