



W.P(MD)No.2144 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.2144 of 2015
and
M.P.(MD)Nos.3 & 4 of 2015**

1.Caroline Mary (died)

2.B.Rajan (died)

3.B.C.Manickam

4.Jon of Arc

... Petitioners

Vs.

1.The District Revenue Officer
cum District Additional Magistrate,
Thoothukudi.

2.The Revenue Divisional Officer,
Thiruchendur,
Thoothukudi District.

3.The Tahsildar,
Thiruchendur Taluk,
Thoothukudi District.

4.Tamil Nadu Hindu Saiva Maruthuva
Uravinmurai Podhu Madam,
Thiruchendur,
Rep. by its new President S.Ramalingam,
S/o.P.Sankarasubbu,
N.G.O.'B' Colony, Perumalpuram,
Tirunelveli-7.



W.P(MD)No.2144 of 2015

(4th respondent is substituted
vide order dated 13.09.2023)

... Respondents

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the Impugned Order passed by the 1st Respondent in Moo. Mu.D3/33232/14, dated 10.11.2014 and quash the same.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader for R1 to R3

: Mr.V.Meenakshi Sundaram for R4

ORDER

Heard both sides.

2. The case of the fourth respondent is that the petition mentioned property measuring 13.5 cents was purchased long back. It is their contention that behind their back, the petitioners managed to obtain subdivision and natham patta in their favour in the year 1993. Since this was done behind their back, when the fourth respondent came to know the same, they filed an appeal before the Revenue Divisional Officer, Tiruchendur. The Revenue Divisional Officer, Tiruchendur during the relevant time was the appellate authority. Now the competent authority is the DRO. The RDO rejected the appeal filed by the fourth respondent as time barred. Challenging the same, the fourth



W.P(MD)No.2144 of 2015

respondent moved the DRO, Thoothukudi. By the impugned order, the DRO set aside the order of RDO and remanded the matter for fresh enquiry and disposal. It is this order passed by the DRO that is put to challenge in this writ petition.

3. The learned counsel for the petitioners pointed out that the DRO has passed the impugned order without notice to the petitioner. This contention of the petitioner's counsel is well founded. A mere look at the impugned order would indicate that the DRO, Thoothukudi did not hear the petitioners before setting aside the order passed by the RDO, Tiruchendur. The RDO, Tiruchendur no doubt had only negated the fourth respondent's appeal as time barred. But then, on account of such dismissal, right accrued in favour of the petitioners. Therefore, the writ petitioners ought to have been heard before any order was passed by the first respondent. Since that was not done, it is a clear breach of the principles of natural justice. On this sole ground, the order impugned in the writ petition is set aside. I have to necessarily remand the matter to the file of the first respondent for fresh consideration. The fourth respondent is a public body. They claim title and possession over 13 ½ cents of land. They are relying on the title deed of the year 1877. On the other hand, the petitioners has been issued with natham patta in the year 1993. Therefore, this issue has to be necessarily resolved by the first respondent. The first



W.P(MD)No.2144 of 2015

respondent will issue notice to both the parties and after hearing them, final order on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. I make it clear that I have not gone into the merits of the matter. The contentions of both the parties are left open.

4. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

13.09.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

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- 3.The Tahsildar,
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W.P(MD)No.2144 of 2015

G.R.SWAMINATHAN, J.

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W.P(MD)No.2144 of 2015

13.09.2023