



W.P.(MD)No.7360 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7360 of 2015

and

W.M.P(MD)No.1 of 2015

K.Muthumalini

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Palani,
Dindigul District.

2.Srimadhura

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in Mu.Mu.No. 3656/2012/A1 dated 05.07.2012 and quash the same.

For Petitioner : Mr.S.Anand Chandrasekar

For Respondents : Mr.M.Siddharthan
Additional Government Pleader for R.1

Mr.M.Saravanan for R.2



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ORDER

Heard the learned counsel on either side.

2. The writ petitioner purchased lands in Survey Nos.86/1, 85/2, 88/2C3 in Puliyampatti Village, Palani Taluk through registered sale deed dated 03.02.1999. She was issued with patta on 31.03.2009. As per the patta, the petitioner was entitled to 4 acres and 2 cents. Aggrieved by the same, the second respondent herein submitted petition before the jurisdictional Tahsildar. The Tahsildar, Palani submitted report dated 07.06.2012. Based on the report of the Tahsildar, the Revenue Divisional Officer, Palani passed order dated 05.07.2012 cancelling the patta issued in favour of the petitioner. The Tahsildar was directed to issue notice to obtain fresh applications from the concerned land owners and make appropriate changes in the revenue record after enquiry. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.



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4. The second respondent has filed counter affidavit. The learned counsel took me through its contents. He pointed out that the petitioner tried to commit encroachment and demolished the compound wall of the second respondent. In this regard, the petitioner as well as her husband were criminally prosecuted. This Court while quashing the proceeding in CrI.O.P(MD)No.13694 of 2015 on 21.11.2019 recorded the petitioner's undertaking that she won't claim more than 3 acres and 70 cents in Survey No.85/2. A sum of Rs.5,000/- (Rupees Five Thousand only) was also paid to the second respondent by way of compensation. He also pointed out that in view of the petitioner's conduct O.S.No.166 of 2012 filed by her before the Additional Sub Court, Palani was also dismissed on 28.04.2022. The learned counsel submitted that the second respondent has no objection for patta being issued in favour of the petitioner in respect of the extent of land to which she is entitled as per sale deeds. In fact, the learned counsel appearing for the petitioner wanted this Court to issue direction straightaway in these proceedings itself.

5. The learned Additional Government Pleader appearing for the first respondent submitted that the first respondent had passed an



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equitable order. He pointed out that even according to the petitioner, while she was entitled to patta only for 4 acres, 2 cents extra had been added and that is why this came to the notice of the authorities when the second respondent lodged complaint. The jurisdictional Tahsildar had conducted enquiry in the matter. The first respondent had set aside what was obviously and admittedly an erroneous patta. In any event, he had only directed the jurisdictional Tahsildar to hold fresh enquiry and issue patta after hearing the concerned parties. Such an equitable order does not warrant interference. This is the submission of the learned Additional Government Pleader.

6. I carefully considered the rival contentions and went through the materials on record. It is beyond dispute that the impugned order which operates to the prejudice of the petitioner was passed behind her back and without notice to her. The petitioner had obtained patta way back in the year 2009.

7. The learned counsel appearing for the second respondent would point out that while issuing patta in favour of the petitioner, the second respondent was not put on notice. Thus, the jurisdictional Tahsildar had acted without complying with the principles of natural justice from the



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inception. Three years later, when the first respondent passed an order, he again acted without complying with the principles of natural justice.

It is such illegal actions on the part of the revenue authorities that is needlessly generating litigation. The writ Court as well as the counsel concerned are satisfied if such orders are set aside and the matter is remanded. It is a time for learning lessons. The order impugned in this writ petition is set aside on the ground of violation of principles of natural justice. An order afresh on merits and in accordance with law shall be passed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

8. This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is clsoed.

19.09.2023

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

MGA

To

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and
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