



W.P.(MD) No.12232 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.12232 of 2016

and

W.M.P (MD) Nos.9324 and 13552 of 2016

P.Vijayan

... Petitioner

Vs.

1. The District Revenue Officer,
Tuticorin District, Tuticorin.
2. The Revenue Divisional Officer,
Kovilpatti- 628 501, Tuticorin District.
3. The Tahsildar,
Kovilpatti Taluk, Kovilpatti,
Tuticorin District.
4. The Zonal Deputy Tahsildar,
Kovilpatti, Tuticorin District.
5. S. Thangaiah,
Zonal Deputy Tahsildar, Kovilpatti Taluk,
Tuticorin District.



W.P.(MD) No.12232 of 2016

6. R.Seeniammal

7. R.Srinivasan

8. R. Lakshminarayanan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order passed by the 4th respondent in his proceedings no. B2/13541/2015 dated 20.06.2016 and quash the same as illegal and consequently directing the respondents 1 to 4 to restore the patta in the petitioners name for the lands situated in Survey No. 326/3, Ayyaneri Village, Kovilpatti Taluk.

For Petitioner :Mr.V.Karthikeyan

For Respondents :Ms.D.Farjana Ghoushia
Special Government Pleader for R1 to R4
R5 – No appearance
Mr.Vashik Ali
for M/s.D.Nallathambi for R6 to R8

ORDER

The petitioner assails an order dated 20.06.2016 of the fourth respondent by which the original patta was cancelled and a joint patta was issued by including the names of respondents 6 to 8.



W.P.(MD) No.12232 of 2016

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2. The petitioner asserts title over the property bearing Survey No. 326/3 at Ayyaneri Village, Kovilpatti Taluk. The petitioner traces title through a sale deed executed by Thiruvengkataraj @ Kannan in favour of Thomas under Document No.1341/1995 dated 02.05.1995, sale deed executed by the said Thomas in favour of one Kathirvel on 02.03.2001 under Document No.858/2001 and sale deed dated 29.04.2009 executed by Kathirvel through his power of attorney, Karthikeyan, bearing Document No.3445/2009 in favour of the petitioner. It is asserted that patta was issued to the petitioner thereafter under Patta No.1541.

3. The petitioner states that subsequently the sixth respondent filed an application before the second respondent for including her name in the patta as a legal heir of the original owner, Ramasamy. Without putting the petitioner on notice, it is stated that the second respondent passed an order including the name of the sixth respondent. In those circumstances, the petitioner filed W.P. (MD) No.1476 of 2015, which was allowed on 15.06.2015 by directing the second respondent to conduct a fresh enquiry after providing a reasonable opportunity to all parties.



W.P.(MD) No.12232 of 2016

WEB COPY

4. According to the petitioner, the second respondent did not pass orders pursuant to the orders of this Court. Instead, the impugned order was passed by the fourth respondent, who does not have the jurisdiction to pass such orders.

5. Learned counsel for the petitioner contends that the fourth respondent did not have the jurisdiction under the Tamil Nadu Patta Pass Book Act, 1983 (the Patta Pass Book Act) to pass the impugned order. Therefore, at a minimum, he contends that the impugned order should be set aside and the matter remanded for reconsideration by the Revenue Divisional Officer.

6. Learned counsel for respondents 6 to 8 contends that the order of the fourth respondent is sustainable. In this connection, he relies upon Section 10 of the Patta Pass Book Act and contends that the Tahsildar is empowered to pass orders for the mutation of the patta. He further contends that the sixth respondent is the first wife of the original owner, Ramasamy. Respondents 7 and 8 are the children of Ramasamy. Since one of the sons of



W.P.(MD) No.12232 of 2016

Ramasamy executed a sale deed in favour of Thomas and the petitioner traces title through him, learned counsel submits that respondents 6 to 8 are entitled to a joint patta in respect of the relevant property. Therefore, he submits that there is no infirmity in the impugned order.

7. Learned Special Government Pleader invited my attention to the impugned order to point out that the fourth respondent was authorized to decide the matter by a communication dated 30.09.2015 from the Revenue Divisional Officer.

8. Under the scheme of the Patta Pass Book Act, patta is issued by the Tahsildar. After issuance of the patta, if there is a change in ownership due to a transfer of the relevant property, the transferee can approach the Tahsildar for mutation. Similarly, if the original owner dies, the legal heir of the original owner can approach the Tahsildar for mutation. On the other hand, if the patta issued by the Tahsildar is challenged by an aggrieved person, such challenge would lie by way of an appeal before the jurisdictional Revenue Divisional Officer. In this case, respondents 6 to 8



W.P.(MD) No.12232 of 2016

WEB COPY

approached the Revenue Divisional Officer by filing an appeal under the provisions of the Patta Pass Book Act. Consequently, it is the Revenue Divisional Officer who should have exercised jurisdiction and decided the appeal filed by the private respondents. On that ground, the impugned order is unsustainable and is hereby quashed. As a corollary, the matter is remanded to the second respondent for reconsideration. The second respondent is directed to reconsider the matter by providing a reasonable opportunity to the petitioner and the private respondents herein. Upon such reconsideration, a reasoned order shall be issued within a period of three months from the date of receipt of a copy of this order.

9. Accordingly, W.P. (MD) No.12232 of 2016 is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.03.2023

NCC :No
Internet :Yes
Index :No
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W.P.(MD) No.12232 of 2016

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W.P.(MD) No.12232 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

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W.P.(MD)No.12232 of 2016

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