



W.P.(MD)No.9017 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED :10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.9017 of 2016
and
W.M.P.(MD).Nos.7189 and 7190 of 2016

Selvam

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Madurai,
Madurai District.

2.The Tahsildar,
Melur Taluk,
Melur, Madurai District.

3.The Special Tahsildar,
Town Land Tax Revenue,
Melur, Madurai District.

4.B.Bhoopathi

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to Impugned Order passed by the first respondent in his proceedings in Ni.Mu.No.3442/2011/N dated 27.06.2014 and quash the



W.P.(MD)No.9017 of 2016

same as illegal and consequently direct the first respondent to restore the patta of the property to an extent of 5 cents in Town Survey Nos.13 and 14 at Block No.18, Ward-B, Madurai District in the name of the Siddhi Vinayagar Temple Hereditary trustee.

For Petitioner :Mr.J.Lawrance

For Respondents :Mr.M.Sarangan
Additional Government Pleader for R1 to R3

:Mr.S.Parthasarathy for R4

ORDER

The petitioner assails an order of the first respondent dated 27.06.2014 and also prays for the consequential restoration of the patta for the property bearing Town Survey Nos.13 and 14 at Block No.18, Ward-B Melur, Madurai District, in the name of the Siddhi Vinayagar Temple represented by its hereditary trustees.

2. The petitioner states that the property bearing Survey No.389/4 admeasuring 40 cents originally belonged to his forefather, namely, Subbaiah Ambalam. According to the petitioner, upon the death of Subbaiah Ambalam, three of his sons were in possession and enjoyment of his



W.P.(MD)No.9017 of 2016

properties. Out of the three sons, the elder son Murugiah Ambalam also died leaving behind his wife and two sons. As between the surviving legal heirs of Subbaiah Ambalam, it is stated that a settlement deed was executed on 10.06.1935 under Document No.815 of 1935. The petitioner asserts title under the said settlement deed.

3. The petitioner alleges that the fourth respondent purchased about 40 cents of property, which is located adjacent to the five cents over which the petitioner claims title. According to the petitioner, the fourth respondent has fabricated documents to claim title over the five cents also. The petitioner further states that the fourth respondent approached the first respondent to cancel the patta standing in the name of the temple represented by its hereditary trustees and that the impugned order was issued pursuant to the request made by the fourth respondent.

4. Learned counsel for the petitioner submits that the impugned order was passed by the first respondent without providing a reasonable opportunity to the petitioner. By drawing reference to the impugned order, particularly the operative paragraphs thereof, learned counsel contended



W.P.(MD)No.9017 of 2016

that the order was passed upon examining the report submitted by the jurisdictional Tahsildar. He further submits that it is evident from the impugned order that the first respondent did not put the petitioner on notice and provide a reasonable opportunity to the petitioner. By producing a copy of the Town Survey Register, learned counsel points out that the register reflects the name of Arulmighu Siddhi Vinayagar Temple represented by its hereditary trustees.

5. In response to his contentions, learned counsel for the fourth respondent submits that the petitioner's father conveyed the relevant property in 1962 both on his behalf and on behalf of his minor son, the petitioner herein. Consequently, he submits that the conveyance should have been challenged by the petitioner within three years after attaining the age of majority. In the absence of such challenge, learned counsel submits that the petitioner is not entitled to any rights in respect of the relevant property or to seek the restoration of the patta. By inviting my attention to the impugned order, learned counsel contends that the order indicates that the patta in the name of the fourth respondent was unlawfully mutated in the name of the Siddhi Vinayagar Temple represented by its hereditary trustee.



W.P.(MD)No.9017 of 2016

WEB COPY

Therefore, after calling for a report from the jurisdictional Tahsildar, the impugned order was issued. Learned counsel also points out that the jurisdictional Tahsildar had provided an opportunity to the petitioner but that the petitioner did not produce any documents other than the settlement deed bearing document No.815 of 1935. Since the impugned order was issued after taking into consideration these aspects, learned counsel submits that no interference is called for.

6. Learned Additional Government Pleader submits that the impugned order was issued after examining all relevant documents and the report of the jurisdictional Tahsildar. He also states that the statute provides for a remedy by way of revision and that, therefore, the writ petition is not maintainable.

7. The principal ground on which the impugned order is assailed is that the petitioner was not put on notice and that a reasonable opportunity was not provided to the petitioner. On examining the impugned order, it is evident that the first respondent has acted on the basis of a report of the jurisdictional Tahsildar. On such basis, the entries made under RTR No.4477



W.P.(MD)No.9017 of 2016

WEB COPY

of 2005 in the name of the Siddhi Vinayagar Temple represented by its temporary trustee N.Subbaiah Ambalam and others was cancelled. Thus, an order adverse to the petitioner was issued without providing a reasonable opportunity to the petitioner. As the appellate authority under the Patta Passbook Act, it is incumbent upon the first respondent to independently assess the materials on record after providing a reasonable opportunity to all parties who would be affected by the decision. Although learned counsel for the fourth respondent submitted that the petitioner's father had conveyed the property in 1962 and that the petitioner, consequently, does not have any rights over the said property, I am not inclined to examine the merits of the matter or express any opinion thereon.

8. For the limited reason that a reasonable opportunity was not provided to the petitioner, the impugned order is quashed and the matter is remitted for re-consideration by the first respondent. The first respondent is directed to provide a reasonable opportunity to the petitioner, the fourth respondent and any other interested persons before issuing a reasoned decision.



W.P.(MD)No.9017 of 2016

WEB COPY

9. W.P.(MD).No.9017 of 2016 is disposed of on these terms.

There shall be no order as to costs. Consequently, connected W.M.P.
(MD).Nos.7189 & 7190 of 2016 are closed.

10.04.2023

NCC :Yes/No
Internet :Yes/No
Index :Yes/No
sbn

To

- 1.The Revenue Divisional Officer,
Madurai,
Madurai District.
- 2.The Tahsildar,
Melur Taluk,
Melur, Madurai District.
- 3.The Special Tahsildar,
Town Land Tax Revenue,
Melur, Madurai District.



WEB COPY



W.P.(MD)No.9017 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

sbn

W.P.(MD)No.9017 of 2016
and
W.M.P.(MD).Nos.7189 and 7190 of 2016

10.04.2023