



Order dated 05.02.2024
in W.P.No.15769 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.15769 of 2021
and
W.M.P.Nos.16677 and 16689 of 2021
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Arriya Vaisyar Community,
Represented by its President
Govindarajulu.

.. Petitioner

Vs.

1. The District Revenue Officer, Cuddalore.
2. The Sub-Collector,
Cuddalore Main Road,
Virudhachalam.
3. The Tahsildar, Virudhachalam.
4. The Sub-Registrar,
Mangalampettai,
Virudhachalam Taluk,
Cuddalore District.
5. Veeran
6. Rajadurai
7. Rajaram
8. Ramadurai
9. Rajalakshmi

.. Respondents

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Writ Petition (taken up now on remand from the Division Bench of this Court in Writ Appeal No.2040 of 2023, vide judgment dated 18.01.2024) praying for issuance of a Writ of Certiorari to call for the records on the file of the second respondent in proceedings No.Mu.Mu.(A4).1781/2018, dated 07.02.2019 and quash the same as illegal, incompetent and unconstitutional and for consequential orders.

For petitioner : Mr.V.Raghavachari, Senior Counsel for Ms.V.Srimathi

For respondents: Mr.A.Selvandran, Spl.G.P. for RR-1 to 4

Mr.K.Selvaraj for RR-5, 7, 8 and 9

No appearance for R-6

ORDER

This Writ Petition is taken for hearing now on remand by the Division Bench of this Court by judgment dated 18.01.2024 in Writ Appeal No.2040 of 2023.

2. The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorari to call for the records on the file of the second respondent in proceedings No.Mu.Mu.(A4).1781/2018, dated 07.02.2019 and quash the same as illegal, incompetent and unconstitutional and for consequential orders.

3. The learned Senior Counsel appearing for the petitioner submitted that the members of the petitioner-Community are in occupation and possession of



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the property(ies) in question, which belong to them. The private respondents accepted the possessory title and they have entered into a rental agreement with the petitioner-Community, based upon which, they were in possession. Subsequently, even without the knowledge of the petitioner, they have managed with the Revenue authorities and obtained Patta in their names. The petitioner and its community people have filed objection before the second respondent and without considering the representation of the petitioner and also the rental agreement, the order dated 07.02.2019 was passed, which is under challenge in this Writ Petition.

4. The learned counsel appearing for the private respondents submitted that the disputed property is a "Natham" land and the private respondents are in possession of the property in question for more than 40 years and based on their long possession, enquiry has also been conducted by the Village Administrative Officer and local-men and based on their evidence and since it is 'Natham' land and also considering the fact that they are in long possession, the Patta was granted. Learned counsel further submitted that the property covered under the rental agreement has nothing to do with the disputed property, which is entirely a different property and therefore, the impugned order may not be set aside and the Writ Petition is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

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6. Admittedly, the property(ies) is/are covered under "Natham" and the main grievance of the petitioner-Community is that the official respondents had accepted the right and title of the writ petitioner and entered into agreement and taking advantage of that same, the private respondents are in possession and they have also obtained Patta behind the back of the petitioner. The Revenue Authority, without even issuing notice to the petitioner and without even giving an opportunity of hearing, had issued Patta in the name of the private respondents, and therefore, the impugned order is liable to be set aside.

7. Admittedly, the rental agreement was between the petitioner and the private respondents and the learned counsel for private respondents had not disputed the rental agreement entered into between the petitioner and the private respondents. However, the objection is that the subject property(ies) is/are covered under the impugned Patta and it is not the property covered under the rental agreement.

8. The Court requires evidence which is absent in this case, and hence, for the afore-stated reasons, the impugned order is set aside, as without giving an opportunity of hearing to the writ petitioner, the Patta was alleged to have been issued to the private respondents. The matter is remitted back to the second respondent who is directed to give notice to the private respondents herein, as also the petitioner herein and that, as one of the private respondents, namely



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Veeran had also filed suit before the Civil Court in O.S.No.246 of 2023 on the file of the Principal Sub-Court, Virudhachalam, and regarding the possession, the private respondents herein at liberty to work out their remedy before the Civil Court.

9. As far as Patta is concerned, the main grievance of the petitioner is that no notice was served and no opportunity was afforded to the petitioner-Community. Hence, as observed above, the impugned proceedings dated 07.02.2019 is set aside and the matter is remitted back to the second respondent, who is directed to give notice to the petitioner herein, private respondents herein, or interested parties / rival claimants / objectors, as the case may be and after giving notice to the parties and after hearing all of them, conduct enquiry in the manner known to law and pass appropriate orders on merits and in accordance with law.

10. While deciding the matter, the authority concerned/second respondent herein shall not be influenced by any of the observations made by this Court in this order or in the earlier order passed by this Court on 20.03.2023 and the authority concerned shall conduct fair enquiry and pass appropriate orders on merits and in accordance with law.

11. The above exercise in entirety, shall be completed within a period of two months from today.

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12. With the above observations and directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, W.M.Ps. are closed.

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CS

To

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3. The Tahsildar, Virudhachalam.
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