



W.P(MD)No.1026 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

**W.P(MD)No.1026 of 2024
and
WMP(MD)Nos.1027 to 1028 of 2024**

Sithinayeema

.. Petitioner

-Vs-

1.The Revenue Divisional Officer,
Pattukottai,
Tanjore District.

2.The Tahsildar,
Pattukottai Taluk,
Tanjore District.

3.The District Collector,
Tanjore District.

4.The District Revenue Officer,
Tanjore District.

.. Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent dated 31.10.2023 made in Na.Ka.No.



W.P(MD)No.1026 of 2024

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3059/2023/A4 and quash the said order of the 1st respondent as illegal and without jurisdiction and consequently direct the 4th respondent to conduct enquiry in respect of the alleged encroachment of the Wakf property which is the subject matter of the report of the 2nd respondent dated 10.10.2023.

For Petitioner : Mr.K.Vadivelu

For Respondents : Mr.D.Gandhi Raj
Spl. Govt. Pleader

ORDER

This writ petition is filed seeking for issuance of a Writ of Certiorarified Mandamus, to set aside the order of the 1st respondent dated 31.10.2023 made in Na.Ka.No.3059/2023/A4 as illegal and without jurisdiction and consequently direct the 4th respondent to conduct enquiry in respect of the alleged encroachment of the Wakf property which is the subject matter of the report of the 2nd respondent dated 10.10.2023.

2. Heard Mr.K.Vadivelu, learned counsel for the petitioner and Mr.D.Gandhi Raj, learned Special Government Pleader appearing for the respondents.



W.P(MD)No.1026 of 2024

WEB COPY

3. The learned counsel for the petitioner submitted that the 2nd respondent by order dated 16.06.2021 after following the due procedure sub-divided the properties in various survey numbers situated at Sendakottai (123) Village, Pattukottai Taluk and granted patta in the name of the petitioner in Patta No.1370. Thereafter, the Wakf Board by letter dated 22.11.2022 requested the 3rd respondent to measure the Wakf properties of the M.K.N.Madharsha Trust which is encroached the properties in the said village Based upon the said letter, the 3rd respondent directed the 2nd respondent to submit a report in respect of the alleged encroachment of the M.K.N.Madharsha Trust, Athiramapattinam. The 2nd respondent filed a report dated 10.10.2023. Based upon the said report, the 1st respondent passed the impugned order dated 31.10.2023 in Na.Ka.No.3059/2023/A4 cancelled the patta granted in favour of the petitioner. After cancelling the patta, the 1st respondent issued notice to the petitioner on 30.12.2023 calling upon the petitioner to attend enquiry on 02.01.2024 and to submit all the relevant documents and objections to the report of the 2nd respondent. The grievance of the petitioner is that without giving an opportunity to the petitioner, the 1st respondent has passed the impugned order dated 31.10.2023. Hence, this petition.



W.P(MD)No.1026 of 2024

WEB COPY

4. The learned counsel appearing for the petitioner would submit that it would suffice if a direction is issued to the respondents to pass appropriate order after giving fair opportunity to the petitioner.

5. In view of the above, it is clear that no opportunity was given to the petitioner herein. Hence, the impugned order dated 31.10.2023 made in Na.Ka.No.3059/2023/A4 by the 1st respondent is hereby set aside. Further, this Court, without going into the merits of the claim made by the petitioner in this Writ Petition, remand back the matter to the authority concerned, ie., the 1st respondent/RDO, Pattukottai, Thanjavur District to consider the same afresh by affording an opportunity to the petitioner as well as the interested parties, if any, and held an enquiry and pass appropriate orders on merits and in accordance with law, within a period of twenty weeks from the date of receipt of a copy of this order. Till such time, the revenue records to be maintained in the manner as on today and no mutation to be carried on.



W.P(MD)No.1026 of 2024

WEB COPY

6. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.02.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
PJL

To
1.The Revenue Divisional Officer,
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W.P(MD)No.1026 of 2024

V.BHAVANI SUBBAROYAN, J.

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**W.P(MD)No.1026 of 2024
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