



W.P.(MD).No.1020 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.1020 of 2024

Senthurkani

... Petitioner

Vs

1. The Secretary,
Revenue and Disaster Management,
Ezhilagam, Chepauk, Chennai-600 005.
 2. The Commissioner,
Land Administration Department,
Ezhilagam, Chepauk, Chennai-600 005.
 3. The District Collector,
Thoothukudi District,
Thoothukudi.
 4. Latha
 5. Maharaja
 6. The Revenue Divisional Officer, *
 - Kovilpatti.
- *R6 suo-motu impleaded as per order of this Court, dated 19.01.2024.*

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st to 3rd respondents to take action and departmental proceedings against the 4th and 5th respondents based on the petitioner's representation, dated 19.08.2023 and pass order on merits and in accordance with law within a time frame stipulated by this Court.

For Petitioner : Mr.K.Chinraj

For Respondents : Mr.J.K.Jayaselan (R1-R3)
Government Advocate

Mr.Imtas (R5)
for M/s.Ajmal Associates

ORDER

The present writ petition has been filed seeking a direction to the respondents 1 to 3 to take action and departmental proceedings against the 4th and 5th respondents based on the petitioner's representation, dated 19.08.2023 and pass order on merits and in accordance with law within a time frame stipulated by this Court.

2.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself. Considering the limited scope and relief sought for in the petition, notice to the fourth respondent is dispensed with.



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3.Heard, the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the fifth respondent. Perused the materials on record.

4.(i).The petitioner claims that his father viz., Sivanu has purchased the property comprised in 1.07 acre in S.No.130B/2A and 7.62 acre in 131B/2A3 in Kurasekaranallur Village, Ottapidaram Taluk, Thoothukudi District vide sale deed, dated 22.08.1966. In the meantime four forged documents were registered in the said property. While so, his father passed away on 15.12.2016.

(ii).With respect to the said property, wrong patta No.1435 was issued in favour of one Manohar and Alagulingam. His brother one Subramanian filed a writ petition in W.P(MD)No.585 of 2017 to cancel the wrong patta issued in favour of the said Manohar and Alagulingam and to restore patta in the name of his father and the same was disposed of by this Court on 12.01.2017. On the basis of which, the patta was restored in the name of petitioner's father.



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(iii).While so, one Murugan made an application before the respondents Authorities to cancel the restored patta and also filed a writ petition before this Court in W.P(MD)No.7863 of 2022 and this Court vide order, dated 12.05.2022 directed the authorities to consider his representation.

(iv).On the basis of the said order, the Tahsildar, Ottapidaram passed an order of restoration of patta in the name of said Murugan on 20.01.2023. Challenging the same, an appeal was preferred by the petitioner before the Revenue Divisional Officer, Kovilpattai and the same is pending. During the pendency of the said appeal, consequent to the order passed by the Tahsildhar, Ottapidaram, dated 20.12.2023, the Revenue Divisional Officer, Kovilpattai mutated the patta in the name of said Murugan, vide order, dated 29.05.2023.

(v).The contention of the petitioner is that during the pendency of appeal, the Revenue Divisional Officer, Kovilpattai ought not to have passed the said consequential order, dated 29.05.2023. Therefore, he made a representation before the first and second respondents seeking to take departmental action against the respondents 4 and 5 for having mutated the patta with respect to the property mentioned supra and the same was not considered. Hence, this petition came to be filed.



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5.However, the matter in question involves a lot of factual implication and purely it is a civil dispute. It is brought to the notice of this Court that no civil suit is pending and the revenue authorities are the competent persons to decide the issue and pass final order pertaining to the civil dispute between the petitioner and the other stakeholders with respect to the said property. The petitioner, who is a third party cannot seek departmental action as against the official respondents. This Court cannot entertain a mandamus seeking to direct the authorities to take departmental action against their subordinates by invoking the extraordinary jurisdiction of this Court.

6.The matter in hand is no more res-integra and it is a settled preposition of law that a third party cannot seek direction to take departmental action against the official respondents. This Court in a similar case in W.P. (MD)No.16731 of 2020, dated 08.03.2023 has dealt with a similar issue. For proper appreciation, the relevant portion is extracted hereunder:

“The petitioner seeks conclusion of the petition mentioned enquiry proceedings.

2. I went through the contents of the complaint sent by the petitioner. The petitioner has arrayed as many as 94 persons as the respondents in the complaint. They vary from Village Administrative Officers to District Collectors.



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3. *I do not want to make any comment on the petitioner. I would only state that it is for the competent authority to take action the subordinate employees. It is not for this Court to issue any positive mandamus. A third party cannot insist or demand that disciplinary action must be taken against a particular employee or set of employees."*

7. In view of the same, this Court is not inclined to pass any positive mandamus. However, I hereby *suo-motu* implead the Revenue Divisional Officer, Kovilpatti as the sixth respondent in this case and giving liberty to the petitioner to challenge the order passed by the Tahsildar, Ottapidaram in Na.Ka.Aa2/2789/2022, dated 20.01.2023 and the proceedings of the sixth respondent/Revenue Divisional Officer, Kovilpatti, dated 29.05.2023. I hereby direct the sixth respondent to dispose of the appeal preferred by the petitioner in Na.Ka.No.T6/776017/2023, dated 29.05.2023 within a period of four weeks, from the date of receipt of copy of this order.

8. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

19.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

Note: Registry is directed to carry out necessary amendment in the cause title before issuing order copy.

PNM



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To

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2. The Commissioner,
Land Administration Department,
Ezhilagam, Chepauk, Chennai-600 005.
3. The District Collector,
Thoothukudi District,
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4. The Revenue Divisional Officer,
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L.VICTORIA GOWRI, J.

PNM

ORDER IN
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