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W.P.(MD)NO.10436 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.06.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10436 of 2024 AND
W.M.P.(MD)Nos.9397 & 9399 of 2024

S.Uma

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Housing Board, CMDA Complex,
E&C Market Road, Koyambedu,
Chennai – 600 107.
 2. The District Collector,
District Collectorate,
Tirunelveli,
Tirunelveli District – 627 009.
 3. The Project Head,
Kamarajar Salai, Maharaja Nagar,
Tirunelveli – 627 011.
 4. The District Revenue Officer,
District Collectorate,
Tirunelveli,
Tirunelveli District – 627 009.
 5. The Revenue Divisional Officer,
District Collectorate,
Palayamkottai,
Tirunelveli District – 627 009.
 6. The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District – 627 009.
- ... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating the impugned proceedings in Ni.Mu.Ka. 2/14856/2020 dated 24.11.2022 passed by the fourth respondent and quash the same and to consequently direct the sixth respondent to re-issue patta in favour of the petitioner for the lands situated in plot Nos.75, 76, 77, 91 and 92 morefully described in survey No.1025 in Kulavanigarpuram Village, Palayamkottai Taluk, Melapalayam Sub Registrar Division, Tirunelveli District after surveying the said lands based on the representation dated 15.03.2024.

For Petitioner : Mr. P.Samuel Gunasingh

For R-1 & R-3 : Mr.S.Velmurugan,
Standing counsel.

For R-2,R-4 to R-6 : Mr.P.Thambidurai,
Government Advocate.

* * *

ORDER

Heard both sides.

2. The petitioner had earlier filed W.P.(MD)No.18680 of 2021 against the Housing Board. The writ petition was disposed of on 20.11.2023 in the following terms:-



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“ This Writ Petition has been filed for issuance of Writ of Mandamus, forbearing the respondent viz., the Tamil Nadu Housing Board from laying roads or putting up any constructions in the plot belonging to the petitioner in Survey No.1025 at Kulavanigarpuram Village, Palayankottai Taluk, Melapalayam Sub Registrar Division, Tirunelveli District.

2. When the matter was taken up for hearing, the learned Standing Counsel appearing on behalf of the respondents produced the proceedings of the District Revenue Officer, Tirunelveli, dated 24.11.2022. It is seen from this proceedings that there was some confusion with respect to the correlation of the survey numbers which had taken place during the UDR scheme and the District Revenue Officer through the proceedings dated 24.11.2022 has made necessary corrections by correlating the properties to the present survey numbers. Insofar as the Survey No.1025 is concerned, at Serial No.11, it is stated that the relevant Survey Number is 1025/2.

3. In the light of the above proceedings, the Tamil Nadu Housing Board is now having more clarity to deal with the property. A copy of the proceedings was also handed over to the learned counsel for the petitioner. If the petitioner has any grievance on the proceedings of the District Revenue Officer, Tirunelveli, dated 24.11.2022, it is left open to the petitioner to work out his remedy in the manner known to law.”



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3. Pursuant to the liberty given by this Court, the present writ petition has been filed.

4. The stand of the respondents is that the plots purchased by the petitioner fall in new survey No.10/2A1A, 94 and 95 which are included in the old survey No.1025/2. The respondents pointed out that survey No.1025/2 along with other lands was acquired more than 20 years ago and the award was also passed. The amount was also deposited.

5. My attention is also drawn to the order dated 06.01.2023 passed by the Hon'ble Supreme Court dismissing SLP Nos.12187 - 12189 of 2018. The petitioner's case is that her husband had purchased the property way back in the years 1984 and 1985 and he was never put on notice. I do not want to go into the acquisition proceedings. It is quite possible that notice was given to previous pattadar. It is well settled that notice should be given by the acquiring authority to only those persons whose names appear in the revenue record. It is probable that for this reason, the petitioner was not put on notice. I do not want to go into this aspect. My attention is drawn to the order dated 05.07.2014 passed by the



Assistant Commissioner, Tirunelveli Corporation subdividing the property and mutating it in favour of the petitioner Uma. Thus in the revenue record, the name of Uma very much appeared. Procedural fairness requires that the petitioner has to be put on notice before passing the impugned order. It is only for this reason, I am constrained to interfere and for no other reason. The impugned order is interfered with to the extent of the petitioner's lands which are comprised in survey Nos.10/2A1A, 94 and 95. I do not interfere with the impugned order in other respects. It remains intact. The matter is remitted to the file of the fourth respondent to pass order afresh in accordance with law. The parties will appear before the fourth respondent on 14.06.2024 at 3.00 p.m. The order on merits and in accordance with law will be passed by the fourth respondent after hearing the petitioner herein. The petitioner will not receive any further notice from the fourth respondent. This writ petition stands allowed to the aforesaid extent. No costs. Consequently, connected miscellaneous petitions are closed.

05.06.2024

Index : Yes / No

Internet : Yes/ No

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W.P.(MD)NO.10436 OF 2024

G.R.SWAMINATHAN,J.

PMU

To:

1. The District Collector,
District Collectorate,
Tirunelveli,
Tirunelveli District – 627 009.
2. The District Revenue Officer,
District Collectorate,
Tirunelveli,
Tirunelveli District – 627 009.
3. The Revenue Divisional Officer,
District Collectorate,
Palayamkottai,
Tirunelveli District – 627 009.
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