



W.P(MD)No.10390 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10390 of 2024

and

W.M.P(MD)Nos.9365 & 12654 of 2024

Muthumohan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.The Sub Registrar,
Joint No.II,
Karaikudi,
Sivagangai District.

3.SL.N.S.Viswanathan

4.Muthuraman

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the proceedings of the first respondent made in Pa.Mu.A1/8184/2023 dated 12.02.2024 and quash the same.



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For Petitioner : Mr.R.Murali
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R.1 & R.2

Mr.T.Antony Arul Raj for R.3

Mr.A.Srinivasan for R.4

ORDER

Heard both sides.

2.One Muthuraman approached the revenue authorities and obtained joint patta in favour of the members of the extended family. Alleging that this order was passed behind his back, Thiru.Viswanathan filed W.P(MD)No.1288 of 2020. The case of Viswanathan was that the revenue record reflected his name earlier and that the mutation took place behind his back. Accepting the stand of Viswanathan, mutation was set aside and the matter was remitted to the file of the Revenue Divisional Officer, Devakottai. W.P(MD)No.1288 of 2020 was allowed on 03.10.2023. Paragraphs 3, 4, 5 and 6 of the said order read as follows:

“3. The case of the petitioner is that he is the absolute owner of the subject property by virtue of the



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registered sale deed, dated 08.06.2006 and that Patta also stood in his name. The further case of the petitioner is that the fourth respondent and others wanted to grab the property from him and had made an application seeking for mutation of the revenue records. It came to light that the first respondent passed the impugned proceedings dated 28.11.2019, cancelling the Patta that stood in the name of the petitioner and directed the Patta to be issued in the name of the fourth respondent and others. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. The main grievance that was urged by the learned counsel for the petitioner is that the first respondent passed the order without putting the petitioner on notice and without affording an opportunity to him.

5. On carefully going through the proceedings of the first respondent, it is seen that the petitioner was not put on notice and an order has been passed against the petitioner, which has civil consequences. Hence, the impugned order passed by the first respondent is liable to be interfered with by this Court for violation of principles of natural justice. Since this Court is going to remand back the matter to the file of the first respondent, this Court is not intending to go into the merits of the case.



6. *In the light of the above discussion, the proceedings of the first respondent in Pa.Mu.A1/8451/2017, dated 28.11.2019, signed on 03.12.2019, is hereby set aside. The matter is remanded back to the file of the first respondent and there shall be a direction to the first respondent to conduct an enquiry after putting the petitioner, the fourth respondent and the other interested parties, if any, on notice and afford them with sufficient opportunity and thereafter, pass final orders on its own merits and in accordance with law. The entire proceedings shall be completed within a period of 12 weeks from the date of receipt of a copy of this order."*

After remand, impugned order dated 12.02.2024 came to be passed restoring the name of Viswanathan. This order has been challenged by the petitioner herein. This Court granted an interim order of stay. To vacate the same, Viswanathan filed vacate stay petition.

3.The learned Counsel appearing for Viswanathan / the third respondent reiterated all the contentions set out in the affidavit filed in support of the vacate stay petition. The stand of the Viswanathan is that Muthumohan was very much aware of the proceedings and that he was also heard before the impugned order was passed.



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4.The learned counsel appearing for the petitioner on the other hand would contend that no notice was issued to him that is Muthumohan. Since Muthumohan came to know about the proceedings from Muthuraman / fourth respondent herein, he wrote to the Revenue Divisional Officer, Devakottai seeking due opportunity. Muthumohan would contend that without issuing notice and giving due opportunity, the impugned order came to be passed.

5.I called upon the learned Additional Government Pleader to clarify if notice was specifically issued to Muthumohan. The learned Additional Government Pleader categorically stated that no notice was issued to Muthumohan. He however added Muthumohan appeared before the authority.

6.My attention is drawn to the proceedings dated 08.11.2023 passed by the District Revenue Officer, Sivagangai. It appears that aggrieved by the mutation made in favour of the family of Muthumohan and Muthuraman, Viswanathan had filed revision before the District Revenue Officer, Sivagangai. Since W.P(MD)No.1288 of 2020 was allowed, he took back his revision petition. A mere look at the



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proceedings dated 08.11.2023 indicates that Muthumohan was shown as ninth respondent in the revision petition filed by Viswanathan. While allowing the writ petition filed by Muthumohan this Court had specifically directed not only Muthuraman but other interested parties should be put on notice and afforded sufficient opportunity. Therefore, the Revenue Divisional Officer, Devakottai ought to have issued notice to Muthumohan. The order of this Court was to the effect that all the interested parties must be put on notice. Appearance of Muthumohan before the authority is not sufficient compliance of the direction given by this Court. Since no specific notice was issued to Muthumohan, I am bound to interfere.

7.The impugned order is set aside. The matter is remitted to the file of the Revenue Divisional Officer, Devakottai. The Revenue Divisional Officer, Devakottai shall comply with the direction set out in paragraph 6 of the earlier order dated 03.10.2023 made in W.P(MD)No. 1288 of 2020 in letter and spirit. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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8.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

To

1.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.The Sub Registrar,
Joint No.II,
Karaikudi,
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G.R.SWAMINATHAN,J.

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