



W.P(MD)No.13492 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 03.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13492 of 2020

and

W.M.P(MD)No.11247 of 2020

I.Gaspar

... Petitioner

Vs.

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

2.The Tahsildar,
Kalayarkovil, Sivagangai District.

3.Abraham

4.Simiyon

5.A.Alangaram

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 18.02.2020 passed by the second respondent in Na.Ka.A2/362/2020 and quash the same as illegal and consequently direct the first respondent to issue the copy of the order dated 10.01.2020 passed by his vide Na.Ka.No.(A2)/4359/2014.



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For Petitioner : Mr.S.Sankarapandian
For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R.1 & R.2
Mr.D.Senthil for R.3

ORDER

Heard both sides.

2.The Tahsildar, Kalaiyarkovil implemented the order passed by the Executive Magistrate passed under Section 145 of Cr.P.C and removed the name of the writ petitioner from the revenue record.

3.The learned counsel appearing for the petitioner draws my attention to the order dated 15.12.2021 made in W.P(MD)No.5120 of 2019 (Rajathi & Another Vs The Revenue Divisional Officer & Others). A learned Judge of this Court had held that even though the revenue authorities are competent to cancel the patta when they act in a different capacity as Executive Magistrates under Section 145 of Cr.P.C, they cannot exercise such a power. The scope of Section 145 of Cr.P.C is different. While exercising power under Section 145 of Cr.P.C, there



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cannot be any direction for cancellation of patta. The order relied on by the learned counsel for the petitioner is squarely applicable to the case on hand.

4.In this view of the matter, the order impugned in this writ petition is set aside. This writ petition is allowed. I make it clear that the outcome of this writ petition will not come in the way of the contesting respondents from applying to the concerned authorities for mutation of patta. If any such application is filed, it will be dealt with independently and it is own merits. Even though what is assailed in this writ petition is only the consequential order passed by the Tahsildar, Kalaiyarkovil, the primary order passed by the Revenue Divisional Officer, Sivagangai in this case will have to be treated as nullity. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

03.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

MGA

To

- 1.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.
- 2.The Tahsildar,
Kalayarkovil,
Sivagangai District.

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