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W.P.(MD)NO.14967 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14967 of 2020 AND
W.M.P.(MD)Nos.12598, 12600 & 15218 of 2020 &
23388 of 2023

Mohamed Nainar

... Petitioner

Vs.

1. The Collector,
Collectorate,
Tirunelveli -1.

2. Regional Deputy Tahsildar,
Nanguneri, Tirunelveli.

3. Sehu Meera

4. Batur Nisha

5. Fathima Sherin

6. Meera Shafia

7. Per Mohamed

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records made in P.Mu/RTR/482/2020 dated 09.09.2020 passed by the 2nd respondent, quash the same and also further direct the respondents to conduct enquiry after giving opportunity to



petitioner and respondents 3 to 7.

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For Petitioner : Mr.M.V.Venkateseshan,
Senior counsel.
For R-1 & R-2 : Mr.M.Lingadurai,
Special Government Pleader.
For R-3, R-4
& R-6 : Mr.Ajmal Khan,
Senior counsel,
for M/s.Ajmal Associates.
For R-5 : No appearance.

* * *

ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the official respondents and the learned Senior counsel appearing for the private respondents.

2. Vide the impugned order, the Zonal Deputy Tahsildar, Nanguneri had effected mutation of patta in respect of the petition-mentioned land. The patta stood in the name of the writ petitioner's wife. The petitioner would state that his wife settled the property in his favour. It is beyond dispute



that the impugned order was passed without putting the petitioner on notice. When the petitioner's wife was the incumbent pattadar, without notice to her the authority could not have effected mutation. On the ground of violation of principles of natural justice, the impugned order is set aside.

3. The learned Senior counsel appearing for the private respondents filed counter affidavit and the learned Senior counsel took me through its contents and he argued that in this case, this Court should bear in mind the principle that if setting aside the impugned order would result in reviving the illegal order, the Court should refrain from doing so, even when the principles of natural justice have been breached. The learned Senior counsel also endeavoured to show as to how the impugned order can be otherwise justified on merits.

4. Since factual aspects are involved, I do not want to go into this contention. This writ petition is disposed of in the following terms:-

a) The order impugned in this writ petition is set



aside.

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b) The parties before this Court shall appear before the Zonal Deputy Tahsildar on 02.02.2024. On the said date, the parties shall file their respective statements. The Zonal Deputy Tahsildar shall issue notice to the other interested persons if any. An enquiry shall be held and the documents shall be perused and final order shall be passed within a period of three months, thereafter. Issuance of patta in respect of the petition-mentioned property will depend upon the said order to be passed by the Zonal Deputy Tahsildar.

5. I make it clear that I have not gone into the merits of the matter. The contention of both the parties are left open. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

04.01.2024

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

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To:

1. The Collector,
Collectorate,
Tirunelveli -1.
2. Regional Deputy Tahsildar,
Nanguneri, Tirunelveli.



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G.R.SWAMINATHAN,J.

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