



W.P.(MD) No.16268 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.16268 of 2019

and

W.M.P(MD)Nos.15592 and 12936 of 2019

Mohanasundari

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Lalgudi Taluk,
Trichy District.

2.The Tahsildar,
Lalgudi Taluk,
Trichy District.

3.Hariharan

4.Manickam

5.R.Balaji(incharge)

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating the impugned proceedings made in Mu.Mu.No.A3/1595/2019 dated 28.06.2019 passed by the 1st respondent and quash the same and consequently, direct the respondents 1 and 2 to



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restore the revenue records in favour of petitioner in respect of S.No. 15/3B7 measuring an extent of 4.66 ares in Keelanbil Village, Lalgudi Taluk, Trichy District.

For Petitioner	:Mr.T.Antony Arul Raj
For R1 & R2	:Mr.D.S.Nedunchezian Government Advocate
For R3 & R4	:Mr.T.Selvakumaran
For R5	:Mr.G.Shankar Prakash

ORDER

This writ petition is filed challenging the impugned proceedings made in Mu.Mu.No.A3/1595/2019 dated 28.06.2019 passed by the first respondent and quash the same and consequently, direct the first and second respondents to restore the revenue records in favour of petitioner in respect of S.No.15/3B7 measuring an extent of 4.66 ares in Keelanbil Village, Lalgudi Taluk, Trichy District.

2.The case of the petitioner is that the property comprised in S.No. 15/3B7 measuring an extent of 4.66 acres situated at Keelanbil Village, Lalgudi Taluk, Trichy District, belonged to the petitioner's husband viz., Sundararajan. The revenue records stood in his name and past three decades he is in possession and enjoyment of the same and paid the tax



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regularly and Patta Book No.117 was also issued in his favour. The property in question is an agriculture land. The petitioner had two sons. On 12.05.2016 her husbands executed a registered sale deed in her favour. She had thereafter mutated the patta in her name.

3.The third respondent is the petitioner's husband's paternal son. He has started creating a problem in respect of the above property by contending that the property was purchased by his father Govindarajan. Further there is no document to support his claim, the father of the third respondent had executed a settlement deed in favour of the third respondent in respect of his property. Therefore, the petitioner had filed a suit in O.S.No.213 of 2018 before the II Additional District Court, Trichy seeking the relief of declaration declaring the property belonged to her wherein, the third respondent has entered appearance and filed his written statement and the matter is *sub judice*. While so, he made an application against the Presiding officer and filed Transfer .O.P before the III Additional District Court, Trichy. While the suit was pending, the third respondent was making an attempt to change the patta in his name.



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The petitioner was not put on notice. However, VAO informed the petitioner's husband that the enquiry is going to be held on 21.06.2019 in the office of the first respondent. The petitioner had gone to the first respondent, however no enquiry took place. The third respondent gave his application only on 17.06.2019 and on 28.06.2019, within 10 days without notice and without hearing the petitioner, the impugned order has been passed on the basis of the legal opinion of the Government Advocate. Therefore, the petitioner is appeared before this Court seeking to set aside the order of the first respondent.

4.The first respondent has filed a counter one of the grounds that has been raised is that the order of the first respondent is ultimately subjected to the result of the outcome of the suits in O.S.No.213 of 2018 pending on the file of the II Additional District Court, Trichy. The first respondent has also held that the documents have been fraudulently created all of this when the suit is pending before the Court.

5.Heard the learned counsel appearing on either side.



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6.The impugned order admittedly has been passed only on the ground that the civil suit for declaration and injunction was pending between the parties and without the title being finalized, the claim of the third respondent was granted. The question before this Court is whether the first respondent had the right to hear and pass orders on the application filed by the third respondent for cancellation of patta when the suit for declaration is pending. That apart, notice has not been issued to the patta holder and the petitioner was not heard before the impugned order was passed. Therefore, the impugned order deserves to be set aside and accordingly set aside. The parties shall await the results of the suit and after the judgment is pronounced, the parties shall approach the Revenue Authorities.

7.In view of the above, this Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

30.09.2024

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



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P.T.ASHA, J.
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To

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