



W.P.(MD) No.2324 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.2324 of 2018
and
W.M.P.(MD) No.2524 of 2018**

Marudhupandiyan

... Petitioner

/vs./

1.The Tahsildar,
Virudhunagar District,
Virudhunagar.

2.The District Revenue Officer,
Virudhunagar District,
Virudhunagar.

3.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

4.The Tahsildar,
Srivilliputtur Taluk,
Virudhunagar District.

5.V.Ramachandran

... Respondents



W.P.(MD) No.2324 of 2018

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his proceedings in Ne.Mu.A2/28814/2016 dated 13/11/2017 and quash the same as illegal, arbitrary, violation of law and further direct the Respondents 1 to 4 herein to maintain petitioner's name in the patta No.1950 in the property in Survey No.767/69, S.Kodikulam village, Srivilliputhur Taluk, Virudhunagar District.

For Petitioner : Mr.P.Muthupandi for
Mr.M.Jothibasu

For R1 to R4 : Mr.P.Thambidurai
Government Advocate

ORDER

The petitioner seeks to challenge the order passed by the second respondent in his proceedings dated 13.11.2017.

2. The facts preceding the impugned order are as follows:-

2.1. The petitioner's grandfather, namely, Marudappa Thevar, had purchased the property comprised in S.No.767/69, measuring an extent of 0.01.35.0 ares, at S.Kodikulam Village, Srivilliputtur Taluk, Virudhunagar District from one Irulappa Pillai, S/o. Ayyamperumal Pillai. The said Marudappa Thevar



W.P.(MD) No.2324 of 2018

had two sons, Vellapandiya Thevar and Ramaraj Thevar. During their life time, the said Vellapandiya Thevar and Ramaraj Thevar had entered into an oral partition and thus, the property in question was allotted to the share of the petitioner's father, Vellapandiya Thevar. He was in possession and enjoyment of the said property till his death. The fifth respondent is the brother of the petitioner.

2.2. The petitioner would submit that on the death of his father, the fifth respondent, his elder sister, Vellammal and the petitioner succeeded to the property in their father. The petitioner would submit that he is in possession and enjoyment of the said property. On 03.12.1990, the Special Tahsildar (Natham Land Survey Scheme) had issued a notice to the petitioner to attend an enquiry. After the enquiry, the petitioner was issued with patta No.1950 and thereafter, the petitioner had put up a small shed and obtained an electricity service connection to it. The revenue records are all mutated in his name. The petitioner is a retired Village Administrative Officer and the fifth respondent is the retired Inspector of Police.



W.P.(MD) No.2324 of 2018

WEB COPY

3. In 2016, on his retirement, the fifth respondent had submitted a representation to the District Collector to cancel the patta issued in the name of the petitioner and to issue a joint patta. This application has been taken out nearly 26 years after the patta had been issued in favour of the petitioner. The third respondent after hearing both the parties concluded that he had no jurisdiction to decide the issue, as the patta had been issued under the Natham Land Tax Scheme and therefore, the petitioner and the fifth respondent were directed to approach the competent civil Court. Thereafter on 24.09.2017, the fifth respondent had submitted a representation to the first respondent to cancel the patta. The second respondent by the impugned order had not only cancelled the patta but had also re-classified the property from Natham to Government Poramboke. Challenging the same, the petitioner is before this Court.

4. Heard the learned counsel on either side.

5. The second respondent has totally overlooked the sale deed in favour of the petitioner's grandfather in the year 1942 in respect of the property, which would clearly establish that the petitioner's family has been in enjoyment and



W.P.(MD) No.2324 of 2018

possession of the property, since 1942. Ignoring the same, the second respondent has chosen to place reliance on the settlement register of the year 1966, in which it is alleged that the property in question has been classified as Government Poramboke.

6. This Court fails to understand as to why the second respondent has not referred to the earlier document, which is a registered sale deed of the year 1942, where the property has been clearly described as house site. There is nothing to show as to when the natham house site has been re-classified as Government Poramboke and the respondents have also not been able to produce any document to that effect.

7. Further, the petitioner has been issued with a patta as early as in the year 1990 and he is in exclusive possession and enjoyment of the same and the fifth respondent has chosen to question it nearly 26 years after the issue of the patta. If the fifth respondent is aggrieved by the possession and enjoyment of the property by the petitioner, his remedy is not before this Court but before the competent Civil Court. It is also seen that the fifth respondent has suppressed the earlier



W.P.(MD) No.2324 of 2018

WEB COPY

order passed by the Special Tahsildar dated 03.12.1990. Therefore, the impugned order passed by the second respondent in Ne.Mu.A2/28814/2016 dated 13/11/2017 is illegal, arbitrary and suffers from non application of mind and has to be set aside and is accordingly set aside. Consequently, the patta has to be restored back in the name of the petitioner within a period of 8 weeks from the date of receipt of a copy of this order.

8. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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

24.09.2024

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To

- 1.The Tahsildar,
Virudhunagar District,
Virudhunagar.
- 2.The District Revenue Officer,
Virudhunagar District,
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6/8



W.P.(MD) No.2324 of 2018

WEB COPY

3.The Revenue Divisional Officer,
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W.P.(MD) No.2324 of 2018

P.T.ASHA, J.

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W.P.(MD) No.2324 of 2018

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