



W.P.(MD) No.8905 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.8905 of 2018
and
W.M.P.(MD) No.8304 of 2018**

S.Theen

... Petitioner

/vs./

1.The Revenue Divisional Officer,
O/o. the Revenue Divisional Office,
Madurai,
Madurai District.

2.The Tahsildar,
O/o. the Tahsildar,
Thiruparankundram Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Mu.Mu.No.8219/2017/B dated 23.02.2018 on the file of the respondent No.2 and quash the same as illegal and consequently direct the respondent No.2 to grant patta in favour of the petitioner for his properties in



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S.No.88/2, at Thottiyapatti Village, Thiruparamkundram Taluk, Madurai District within the time frame fixed by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The petitioner seeks to quash the order passed by the second respondent dated 23.02.2018 on the ground that the same had been passed without notice to the petitioner and therefore to direct the second respondent to grant the patta in favour of the petitioner in respect of the property comprised in S.No.88/2, at Thottiyapatti Village, Thiruparamkundram Taluk, Madurai District.

2. The petitioner's case is that he is residing in the above mentioned property, which is measuring an extent of 0.60.5 ares and it belong to him, and in the same, a submersible bore well for agricultural purpose has been fixed. The petitioner is growing corn and other seasonal crops and taxes have been paid without any default. The petitioner would submit that the property is his ancestral property and he is the absolute possession of the same. However, patta has been



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3. While so, one Krishnan, who is in noway connected to the property, had filed a petition against the petitioner and his brother before the Revenue Divisional Officer and by an order dated 18.09.1996, the Revenue Divisional Officer had directed the parties to await the outcome of the suit for permanent injunction filed by the said Krishnan in O.S.No.822 of 1994 before the District Munsif Court, Thirumangalam and O.S.No.825 of 1994 filed by one Abimanisha for permanent injunction. The suit was dismissed for default on 11.04.2000. Thereafter, the said Abimanisha Beebi filed a suit for partition against the petitioner and 12 others in O.S.No.195 of 2006 before the III Additional Sub Court, Madurai and the same was dismissed for default, which was not restored thereafter.



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4. After the decree in the suits, the petitioner had approached the Tahsildar to issue patta in his favour on 18.09.2017. The respondents however had not taken any action, but have served the petitioner with the impugned order without even hearing him or giving him an opportunity to submit his explanation. Therefore, being aggrieved by the said order, the petitioner is before this Court.

5. A counter has been filed by the second respondent, wherein they have not denied the fact that the impugned order has been passed without notice to the petitioner. They would submit that the petitioner has an alternate remedy.

6. Heard the learned counsel on either side.

7. No doubt, the petitioner has an alternate remedy. However, the initial authority has passed an order without even considering the petitioner's documents and his contentions and it is this order, which is being challenged as the defense could be taken that the petitioner has not proved his case.



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8. In such circumstances and considering the fact that the principles of natural justice has not been followed, the Writ Petition stands allowed and the matter is remanded back to the second respondent to pass a speaking order by considering the case afresh after hearing the petitioner as well as the other interested parties, if any, within a period of six weeks from the date of receipt of a copy of this order. The impugned order of the second respondent passed in Mu.Mu.No.8219/2017/B dated 23.02.2018 is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

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

10.09.2024

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To

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Madurai District.

2.The Tahsildar,
O/o. the Tahsildar,
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P.T.ASHA, J.

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