



W.P.(MD) No.18215 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD).No.18215 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

Dindigul Ever Silver Brass,
Aluminum and Plastic Vessels,
Manufacturers & Sellers Welfare Association,
Represented by its present President Srikanth.

.. Petitioner

Vs.

1.The District Revenue Officer,
Dindigul District.

2.The Revenue Divisional Officer,
Dindigul.

3.The Tahsildar,
Dindigul East Taluk,
Dindigul District.

4.Selvarajan

5.Ganesan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorarified Mandamus, to call for the



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records pertaining to impugned order of the 2nd respondent in Na.Ka.No. 6979/2012/Aa5, dated 12.07.2013 and the consequential order of the 1st respondent made in Pa.Mu.No.22585/2013/Aa4, dated 24.08.2015 and quash the same as illegal, consequently to direct the respondents 1 to 3 to restore the sub-divisions carried in S.No. 477/1 at Adiyanuthu Village, Dindigul taluk and not to alter the Patta in Patta No.5390 in the name of the petitioner in respect of survey No.477/12, situated at Adiyanuthu Village, Dindigul Taluk to a total extent of 3775 Sq.Feets.

For Petitioner	:	Mr.D.Venkatesh
For R1 – R3	:	Mr.B.Saravanan Additional Government Pleader
For R4	:	Mr.V.Perumal
For R5	:	No Appearance

ORDER

The present writ petition has been filed to quash the impugned order passed by the 2nd respondent and the consequential order of the 1st respondent, dated 24.08.2015 and to direct the respondents 1 to 3 to restore the sub-divisions carried in S.No. 477/1 at Adiyanuthu Village, Dindigul taluk and not to alter the Patta in Patta No.5390 standing in the



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name of the petitioner in respect of survey No.477/12, situated at Adiyannuthu Village, Dindigul Taluk to a total extent of 3775 Sq.Feet.

2. The facts which gives rise to this writ petition is briefly set out herein below:

(i) The petitioners had purchased an extent of 3775 square feet in Survey No.477/1 under a registered sale deed, dated 06.03.2009 at Adiyannuthu Village, Dindigul Taluk from one Mohan Raj. The petitioner would submit that even prior to the purchase by them, the extent purchased by the petitioner had been subdivided as Survey No.477/12 and patta had been issued in favour of the 5th respondent as early as on 01.08.2001. From the 5th respondent, the petitioner's vendor Mohan Raj had purchased the same on 19.09.2001. After the petitioner had purchased the property, he had been granted patta in Patta No.5390. The petitioner has been in possession and enjoyment of the lands since from the date of his purchase.

(ii) Meanwhile, it appears that the 4th respondent had filed a suit in



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O.S.No.555 of 2004 on the file of the Principal District Court, Dindigul for the relief of a declaration and permanent injunction in respect of an extent of 20 $\frac{3}{4}$ cents in Survey No.477/1 situated in the western side of the survey number out of an extent of 1 acre 25 cents. This suit has been filed against the 5th respondent and 13 others. Though the petitioner and his vendor Mohan Raj had purchased the property even prior to the institution of the suit, they had not been made parties to the above suit. This suit came to be dismissed on 03.09.2010, against which, an appeal in A.S.No.111 of 2010 had been filed by the 4th respondent before the Principal Sub Court, Dindigul and the same was decreed in favour of the 4th respondent on 23.07.2012. Though the 4th respondent had taken steps to implead the petitioner as a party in the appeal, the same was dismissed by an order, dated 26.09.2011 and challenging the decree in A.S.No.111 of 2010, the 5th respondent had filed S.A(MD)No.486 of 2013.

(iii) After the decree in A.S.No.111 of 2010, the 4th respondent had made an application on 03.08.2012 to the 2nd respondent to grant patta in his name to an extent of 9047 square feet in Survey No.477/1. Once



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again, the 4th respondent had only shown the 5th respondent as a party. By an order, dated 12.07.2013, the 2nd respondent had cancelled the subdivisions 478/8 to 477/12 and directed the 3rd respondent to issue patta in favour of the 4th respondent to an extent of 20 and $\frac{3}{4}$ cents. The petitioner would submit that the property purchased by the 5th respondent is on the eastern portion of Survey No.477/1 measuring an extent of 2 acres and 50 cents, whereas the 4th respondent had purchased from out of an extent of 1 acre 25 cents on the western side. The 2nd respondent when passing the impugned order, had stated that the patta has been wrongly granted to the 5th respondent in the portion purchased by the 4th respondent. Since the order has been passed without notice to the petitioner, the petitioner has preferred the writ petition.

3. Heard the learned counsels on either side and no counter has been filed on behalf of the respondents

4. It is now brought to the notice of the Court that the second appeal preferred by the 5th respondent and others in S.A(MD)No.486 of



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2013 was allowed by a judgment, dated 03.03.2023 and the judgment and decree passed in A.S.No.111 of 2010 on the file of the Principal Sub Court, Dindigul in favour of the 4th respondent has been set aside. The second respondent in his impugned order had stated that since the second appeal is pending, orders could not be passed in the revision. Since S.A(MD)No.486 of 2013 has been disposed, there is no impediment for the respondents to consider the case of the petitioner. In view of the same, the impugned orders, dated 12.07.2013 and 24.08.2015 are set aside and the matter is remitted back to the file of the 1st respondent. The 1st respondent is directed consider the case of the petitioner afresh and pass orders within a period of eight (8) weeks from the date of receipt of copy of this order.

5. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes/No



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Index : Yes/No
Internet : Yes
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P.T.ASHA, J.

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