



W.P.(MD) No.21680 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.21680 of 2023

and

W.M.P.(MD) Nos.18073 and 18074 of 2023

S.V.Palanisamy

... Petitioner

/vs./

1.The Revenue Divisional Officer,
Ramanathapuram.

2.The Tahsildar,
Keelakarai Taluk,
Ramanathapuram District.

3.Ayyamperumal

4.Senthilkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order dated 25/08/2023 in Pa.Mu./2091/2023 (A1) passed by the first respondent and quash the same.



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For Petitioner : Mr.J.Barathan
For R1 & R2 : Mr.B.Saravanan
Additional Government Pleader
For R3 & R4 : Mr.P.T.S.Narendravan

ORDER

Seeking to quash the impugned order dated 25.08.2023, the writ petition has been filed by the petitioner.

2. The facts, which have culminated in the filing of this writ petition, are as follows:

2.1. The third respondent is the petitioner's father-in-law, who had 11 children through two wives. The petitioner had married one of the daughters, Thenmozhi. It is the case of the petitioner that the third respondent had purchased the property measuring an extent of 90 cents in S.No.44/2, Periyapattinam Village under a registered sale deed dated 30.07.1966, another extent of 1.69 acres in S.No.44/2 at Periyapattinam Village under a registered sale deed of the same date. Thereafter, he had purchased an extent of 72 cents in S.No.44/24, in the very same village under a registered sale deed dated 11.08.1983 and on the very same



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day, he had sold an extent of 1 acre and 35 cents in S.No.44/2 to one Muthuvel, S/o.Pitchai Pandithan.

2.2. Thereafter, the third respondent had purchased 20 cents from the said Muthuvel under an unregistered sale deed. Therefore, the third respondent was in peaceful possession and enjoyment of an extent of 2 acre and 17 cents. These properties were settled in favour of the petitioner's wife, Thenmozhi, under a registered settlement deed dated 16.06.2006 and possession was also handed over to her. The patta in respect of the properties in S.No.44/2A5B measuring an extent of 0.79.5 hectares and in S.No.44/2A8 measuring an extent of 0.08.0 hectares stood in the name of the third respondent prior to the execution of the settlement deed in favour of the petitioner's wife, Thenmozhi. On becoming the absolute owner of the aforesaid properties, the said Thenmozhi had executed a settlement deed in favour of her two minor sons, namely, Rosan Kanna @ Rosan Jegannath and Yukesh Varma @ Yukesh Srinath under a registered settlement deed dated 10.10.2008. Thus, the aforesaid persons had become the absolute owners of the properties concerned.



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2.3. The petitioner had represented the minors as a Guardian in the settlement deed. The elder son had left the country for pursuing his medical education and the younger son had settled in his undivided share in respect of the subject properties in favour of the petitioner under a registered settlement deed dated 11.04.2023. Therefore, the petitioner and his elder son are the joint owners of the property. Patta had also been mutated in the names of his elder son.

2.4. While so, it appears that the fourth respondent, who is none else than the brother-in-law of the petitioner, had sent a petition to the District Collector, Ramanathapuram, stating that his sister, Thenmozhi, had got the patta mutated in her name fraudulently. The District Collector had forwarded the petition to the first respondent. An enquiry notice dated 23.05.2023 was issued to the petitioner's wife, who appeared before the first respondent and submitted her objections. She had brought it to the notice of the District Collector that she had obtained right on the basis of the settlement executed in her favour and that she in turn had settled the properties on her sons. The first respondent ought to have issued the notice to the petitioner and his son, as Thenmozhi had no subsisting right over the property. However, despite bringing to the notice of the first respondent the registered



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documents, the first respondent had passed the impugned order cancelling the patta. This despite the first respondent referring to the settlement deeds in favour of Thenmozhi and the subsequent settlement in favour of petitioner's two sons and the patta standing in the name of petitioner's sons had proceeded to cancel the patta. The order impugned is one, which suffers from violation of principles of natural justice, inasmuch as no notice has been issued to the owners, despite the first respondent was taking note of the transactions. Therefore, the petitioner has come forward with the above writ petition.

3. The first respondent has filed his counter, wherein he has narrated about various transactions, in which he would want to state that the notice was sent to the third respondent and Thenmozhi and the counter in supporting the documents had been filed. An enquiry was conducted and after perusing the documents, the impugned order came to be passed. The first respondent would submit that there is an alternate remedy and further a civil suit in O.S.No.117 of 2023 had been filed by the petitioner before the District Munsif Court, Ramanathapuram against the Revenue Officials and another.



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4. The respondents 3 and 4 have also represented by a counsel.

5. Heard the learned counsel on either side.

6. A reading of the very counter would clearly indicate that the notice has not gone to the owners of the property and that the notice has only gone to the erstwhile owners, namely the third respondent and Thenmozhi. Therefore, the order passed is invalid, as the actual owners and persons in possession had not been given an opportunity to put across their case and there is a serious violation of principles of natural justice. Therefore, it is no doubt true that there is an alternate remedy. However, when the order of the Original Authority suffers on account of the fact that the aggrieved persons had not been given an opportunity to put across their case, the aggrieved persons need not be directed to avail the alternate remedy. This Court sitting under Article 226 of the Constitution of India can set aside the order.

7. Therefore, the Writ Petition stands allowed and the impugned order dated 25/08/2023 passed in Pa.Mu./2091/2023 (A1) by the first respondent is set aside



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and consequently, the patta will be reverted back to the earlier stage and the parties shall await the result of the civil suit before making such further applications. No costs. Consequently, connected Miscellaneous Petitions are closed.

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

23.09.2024

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To

- 1.The Revenue Divisional Officer,
Ramanathapuram.
- 2.The Tahsildar,
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P.T.ASHA, J.

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