



W.P(MD)No.12216 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2024

CORAM :

THE HON'BLE MS.JUSTICE P.T.ASHA

W.P(MD)No.12216 of 2016

and

W.M.P(MD)Nos.9310 and 9311 of 2016

P.Ebinesar Joy

... Petitioner

Vs

1. The District Revenue Officer,
Ramanathapuram.

2. The Revenue Divisional Officer,
Paramakudi Post and Taluk,
Ramanathapuram District.

3. The Sub Inspector of Police,
Sathirakudi Police Station,
Sathirakudi Post,
Paramakudi Taluk,
Ramanathapuram District.

4. M.Elango Rajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari thereby call for records of the first Respondent in Na.Ka.No.Pa.Mu (B5)/19063/2014,



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dated 05.04.2016 and quash the same as illegal and arbitrary.

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For Petitioner : Mr.P.Ganapathi Subramanian,

For R1 & R2 : Mr.D.S.Neduncheziyan
Government Advocate

For R3 : Mr.M.Vaikam Karunanithi
Government Advocate (Crl.Side)

For R4 : Mr.P.Muthusamy

ORDER

This writ petition has been filed seeking to quash the orders passed by the first respondent in Na.Ka.No.Pa.Mu (B5)/19063/2014, dated 05.04.2016.

2.The learned Counsel appearing for the petitioner would submit that the property comprised in S.F.No.367/8 measuring an extent of 0.00.26 square meter at A.Puthu Group, Paramakudi Taluk, belongs to his grandfather Kuladaisamy and the in the re-settlement register, his grandfather's name/Kuladaisamy finds a place as the owner of the property. The said Kuladaisamy died in the year 1992 leaving behind the



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petitioner's father Palthasar to succeed to his estate and his father has been in possession and enjoyment as the absolute owner since the demise of the said Kulandaisamy. The learned Counsel appearing for the petitioner would further submit that there was a house in the above said land, which had been put up by his father and grandfather and was also being paid house tax for the same. Since it was very old, it was in the dilapidated condition. Mean while, the fourth respondent, who owned 0.00.31 square meter of land in S.F.No.367/9, had taken advantage of the petitioner's absence from the village and got the patta in respect of the S.F.No.367/8 belonging to the petitioner annexed along with his property by the proceedings of the Tahsildar, Paramakudi, dated NIL.01.2012. The Tahsildar, Paramakudi had assigned the property as if the fourth respondent was in possession and enjoyment of the property and he did not have any other property. The petitioner would submit that the fourth respondent is a government servant, he is also having agricultural property and a house in S.F.No.367/9. The minute, the petitioner came to know about this order, he had preferred an appeal before the second respondent/Revenue Divisional Officer, Paramakudi Taluk and the second respondent issued notice to the fourth respondent, for which, the fourth respondent filed a counter affidavit admitting the title of the



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petitioner's father but also claimed right on the basis of the unregistered sale deed, dated 11.11.2011, which is said to have been executed by the petitioner's father in favour of the fourth respondent and that he had purchased the property for a sum of Rs.15,000/-. The said sale deed was denied by the petitioner. The learned Counsel appearing for the petitioner would submit that on the basis of the unregistered sale deed, the patta has been transferred, however, the second respondent set aside the order of assignment and the same was challenged by the fourth respondent before the first respondent. The first respondent by the order, dated 05.04.2016 had partly allowed the appeal by setting aside the second respondent's order granting patta to the petitioner and remanded the matter back to the second respondent with a direction to examine whether the fourth respondent is eligible to get the order of assignment. Challenging the same, the petitioner is before this Court.

3.A perusal of the impugned order would clearly show that the first respondent has not taken into consideration the Natham Re-settlement Register, which clearly shows the name of the petitioner. The original file, which was produced for scrutiny of this Court shows this information that had been given in response to the Right to Information



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query raised by the petitioner on 29.08.2013. The said Re-settlement Register along with the response of the Public Information Officer cum District Collector is found in the files and the same has not been taken into consideration at all and the first respondent has taken the house tax receipts into consideration, which is standing in the name of the petitioner's grandfather.

4.In the result, the writ petition stands allowed. No costs. Accordingly, the impugned order is set aside and the matter is remitted back to the District Revenue Officer, Ramanathapuram for fresh consideration taking note of the following aspects:

(a)That the cancellation of the assignment patta given to the fourth respondent has not been challenged till date.

(b)Natham records standing in the name of the petitioner's grandfather Kuladaisamy son of Rayar, which has been furnished to the District Revenue Officer concerned, but which has not been taken into consideration by the officials concerned.

5.The entire exercise should be completed within a period of eight weeks, from the date of receipt of the copy of this order. Since the



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documents are available before the first respondent, there is no necessity to remit the matter to the Revenue Divisional Officer concerned.

6. Consequently the connected miscellaneous petitions are closed.

28.08.2024

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

LR

To

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P.T.ASHA, J.

LR

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