



W.P.(MD) No.21330 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.21330 of 2018
and
W.M.P.(MD) No.19199 of 2018**

1.O.Chinnadurai (died)

2.C.Alagi

3.C.Kanithavam

4.C.Radha

... Petitioners

/vs./

1.Land Commissioner (Administration),
Government of Tamil Nadu,
Kuralagam,
Chepauk,
Chennai 600 005.

2.District Revenue Officer cum
Additional Executive Magistrate,
Collectorate,
Madurai 625 020.



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3.The Revenue Divisional Officer,
Melur 625 106,
Madurai District.

4.The Tahsildar,
Melur Taluk,
Melur 625 106,
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 relating to the order in Ni.Mu.No.32494/2015/G5 dated 12.05.2018 on the file of the second respondent herein and to quash the same, and to direct the respondents 1 and 2 to restore all the Revenue Records pertaining to the lands bearing Survey No. 347/4A3 to an extent of 0.21.5 Hectares, Survey No.347/5B to an extent of 0.28.5 Ares, Survey No.347/8B, to an extent of 0.08.5 Ares, Survey No.347/10B1 to an extent of 0.11.0 Ares, Survey No.347/4B2A, to an extent of 0.13.0 Ares, Survey No.347/6B to an extent of 0.18.0 Ares and Survey No.347/9, to an extent of 0.09.0 Ares all situated in Kesampatti Village, Melur Taluk, Madurai District to the petition and to include the lands in patta No.1033 in the name of the petitioner and issue appropriate computerized patta in the name of the petitioner within a time frame as may be fixed by this Court.

For Petitioner : Mrs.P.Jessi Jeeva Priya

For Respondents : Mr.D.S.Nedunchezian
Government Advocate



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ORDER

The writ petition has been filed for the following relief:

“..... to call for the records relating to the order in Ni.Mu.No. 32494/2015/G5 dated 12.05.2018 on the file of the second respondent herein and to quash the same, and to direct the respondents 1 and 2 to restore all the Revenue Records pertaining to the lands bearing Survey No.347/4A3 to an extent of 0.21.5 Hectares, Survey No.347/5B to an extent of 0.28.5 Ares, Survey No.347/8B, to an extent of 0.08.5 Ares, Survey No.347/10B1 to an extent of 0.11.0 Ares, Survey No.347/4B2A, to an extent of 0.13.0 Ares, Survey No.347/6B to an extent of 0.18.0 Ares and Survey No.347/9, to an extent of 0.09.0 Ares all situated in Kesampatti Village, Melur Taluk, Madurai District to the petition and to include the lands in patta No.1033 in the name of the petitioner and issue appropriate computerized patta in the name of the petitioner within a time frame as may be fixed by this Court.”

2. The short facts which has led to the filing of this writ petition are narrated herein below.



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3. The petitioner would submit that he is the owner of the petition mentioned lands and these lands were included in patta No.1033. The petitioner would submit that these lands were allotted to the family members and they have been enjoying the same by paying kists and other charges. The petitioner was entitled in entirety to the lands comprised in S.No.347/4A3 after purchasing the shares of the other owners under various sale deeds, the last of which was registered on 19.12.2005. According to the petitioner, he had purchased the property ignorant of the changes in the settlement registers during the resettlement.

4. In fact, it is his contention that his predecessors in title were also not aware of these changes which were the mistakes committed by the respondents without the knowledge of the petitioner and his predecessors in title. As soon as the petitioner came to learn about the same, he had made an application to the fourth respondent vide his representation dated 07.06.2012 which had to be renewed from time to time and lastly on 13.05.2015. He was called for an enquiry by the second respondent on 15.10.2015. Accordingly, the petitioner had appeared



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before the second respondent on 16.10.2015 and produced all the records pertaining to the said property and during the enquiry, the Village Administrative Officer of Kesampatti Village was also summoned and he had also given a statement before the second respondent.

5. Further, the petitioner would submit that no action was taken and his request under the RTI Act did not evoke any results regarding the stage of which his application for rectification of the mistakes committed stood. He had received a communication dated 24.02.2017 in R.C.No.32494/2015/G5 which was the communication issued by the second respondent to the first respondent with reference to the lands measuring an extent of 0.21.5 ares in S.No.347/4A3 seeking permission of the first respondent to rectify the mistakes as the power to grant permission for rectifying these mistakes stood by the first respondent alone. While so, the petitioner was shocked to receive the impugned order from the first respondent rejecting the request. Therefore the petitioner has come forward with the present writ petition.



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6. The learned counsel appearing for the petitioner would submit that in his communication dated 24.02.2017, the second respondent had brought to the notice of the first respondent that prior to the Natham Settlement Scheme, the property comprised in S.No 347/4A3, measuring an extent of 0.21.5 ares in patta No.1033 stood in the name of one Nalliappan, S/o.Oyyan. However, during the Natham Settlement Scheme, the very same property has been re-classified as Natham Vacant Land and the survey number is shown as S.No.3899/4A3 and the first respondent had stated that this entry is erroneous and sought for orders of the first respondent to grant patta to the petitioner after rectifying the mistakes. However, totally ignoring this recommendation, the impugned order has been passed and therefore, the same deserves to be set aside.

7. The respondents had not filed their counter. However, the learned Government Advocate appearing on behalf of the respondents would submit that the remedy available to the petitioner is only to file a suit and the writ petition was not maintainable and that the impugned order does not suffer from any error.

8. Heard the learned counsel on either side.



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9. As rightly pointed out by the petitioner, the first respondent has failed to appreciate that the grievance of the petitioner is the reclassification of his property as a Natham vacant site, when the property in patta No.1033 had prior to the Natham Settlement Scheme stood in the name of Nalliappan, S/o.Oyyan. The second respondent has after holding the enquiry and considering the report of the Village Administrative Officer held that the entry was erroneous and had recommended that the first respondent had issued appropriate orders for rectifying the UDR patta. However, the impugned order proceeds on the footing that the petitioner was aggrieved by the demarcation and survey of the property. The very order therefore smacks of total non application of mind on the part of the first respondent.

10. In these circumstances and taking into account the recommendation of the second respondent dated 24.02.2017, the impugned order is set aside and the second respondent is directed to rectify the UDR entry by re-classifying the land as the property of the petitioner and include the same in patta No.1033. The said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.



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11. In fine, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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

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P.T.ASHA, J.

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