



W.P.(MD) No.10370 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.10370 of 2017

and

W.M.P.(MD) Nos.7946 and 7947 of 2017

Kalaimani

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

4.The Tahsildar,
Sivagangai Taluk,
Sivagangai District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of certiorarified mandamus, to call for the records of the 2nd respondent in Na.Ka.B4/7265/2017 dated 21.09.2015,



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and quash the same as illegal and unconstitutional, consequently direct the respondents to restore the name of the petitioner under Patta No. 1472.

For Petitioner : Mr.S.Balamurugan
For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The writ petitioner seeks the issue of writ of certiorarified mandamus to quash the order passed by the second respondent dated 21.09.2015 and direct the respondents to restore the name of the petitioner in Patta No.1472.

2. The grievance of the petitioner is that the impugned order has been passed without notice to him.

3.1. The facts are briefly set out hereinbelow:

The property measuring 50 cents comprised in S.No.231/1 of Vembattur Village, Sivagangai District, was being enjoyed by the



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petitioner and prior to him, his ancestor for time immemorial with Kudiwaram right by paying Melwaram to the landlord of the Inam Estate. They had been carrying on agricultural operations in the said land. The petitioner therefore, applied for a Ryotwari patta. The Settlement Tahsildar No.II, Madurai, held that the petitioner's ancestors were entitled to Ryotwari patta in respect of the aforesaid lands by his order dated 18.01.1977. There is no appeal filed against the said order. Thereafter, the Settlement Officer, Madurai Land Tax Deputy Tahsildar, Madurai, conducted an enquiry on 14.04.1977 and the petitioner's father had produced all the documents. However, no orders were passed to include the name of the petitioner's father in the revenue records and the authorities have failed to change the classification of the said lands and it continued to be Kalam poramboke.

3.2. On 22.05.1987, the petitioner's father had made a representation for issue of patta. The patta was however issued in the name of the petitioner in Patta No.1472 and he has been in occupation and enjoyment of the lands.



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3.3. While so, the petitioner was shocked to receive an order passed by the second respondent dated 21.09.2015 whereby the patta granted to him was cancelled on the ground that Kalam poramboke cannot be assigned to individuals by way of patta. No opportunity was given prior to the cancellation and it appears to be that the cancellation was at the behest of third persons. Therefore, the petitioner is before this Court.

4. The learned Government Advocate, on instructions, would submit that no notice had been issued to the petitioner before the cancellation.

5. In the light of the above, the impugned order has to necessarily be set aside, as the principles of the natural justice had been violated and the petitioner's patta had been cancelled without notice to him and without hearing him.



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6. Accordingly, this Writ Petition is allowed, the impugned order dated 21.09.2015 is set aside and the matter is remitted back to the second respondent for fresh consideration. The second respondent shall issue notice to the petitioner and other persons, who had made the complaint and thereafter, pass orders after affording personal hearing to both sides. The said exercise shall be concluded within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

13.08.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Revenue Officer,
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- 3.The Revenue Divisional Officer,
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P.T.ASHA, J.

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4.The Tahsildar,
Sivagangai Taluk,
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