



W.P.(MD) No.14979 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.14979 of 2017
and
W.M.P.(MD) No.11803 of 2017**

P.Thambidurai

... Petitioner

/vs./

1.The Sub Collector,
Thoothukudi District,
Thoothukudi.

2.P.Gandhimathi

... 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 proceedings of the impugned summons in Na.Ka.A1/2523/2017 dated 24.07.2017 on the file of the 1st Respondent and quash the same.

For Petitioner	: Mr.I.Robert Chandrakumar
For R1	: Mr.B.Saravanan Additional Government Pleader
For R2	: Mr.M.P.Senthil



W.P.(MD) No.14979 of 2017

WEB COPY

ORDER

The above writ petition has been filed for a Writ of Certiorari to quash the order passed in Na.Ka.A1/2523/2017 dated 24.07.2017 by the first respondent.

2. The short facts are as follows:

2.1 The petitioner would submit that his family owned ayan punja lands in S.Nos.82A/2A, 83A/1A, 83A/1B2 and 84B/2 at Keezha Vallanadu Village, Srivaikundam Taluk, Thoothukudi District and barren lands in other survey numbers. The patta in respect of all these lands stands in the name of the petitioner and his siblings and that they are carrying on farming in these lands. 3 acres from out of the above lands were acquired for the purpose of expanding Tirunelveli – Thoothukudi National Highway.

2.2 The petitioner would submit that he and his family members have been cultivating Jasmine, Cotton, Groundnut, Pulses, Drumstick, mango and Coconut on the said lands and that apart, they were running a roadside eatery in the name and style of Suba Vilas Hotel.



W.P.(MD) No.14979 of 2017

WEB COPY

2.3 He would further submit that in S.No.83A/1B2, he had constructed a house in the said lands in the year 2006 and the house is assessed to property tax. Patta No.317 was also issued in the name of the petitioner. In the year 2009, the second respondent's husband had filed an appeal before the first respondent to cancel the patta stating that the patta has been issued in a fraudulent manner. This appeal was allowed on 31.08.2009. Aggrieved by the same, the petitioner had filed a Revision before the District Revenue Officer, Thoothukudi on 17.09.2009. The District Revenue Officer had disposed of the Revision stating that a suit O.S.No.181 of 2007 was pending in respect of the said survey number on the file of District Munsif Court, Srivaikundam and on the suit reaching finality, the parties could approach the appropriate forum. Thereafter, on 11.12.2013, the second respondent's husband once again filed an appeal before the first respondent to cancel the patta standing in the name of the petitioner. However, the appeal was dismissed by the first respondent stating that the suit is pending.

2.4 Meanwhile, the suit O.S.No.181 of 2007 was filed by one S.Palavesan and his legal heirs against the petitioner and his family members for partition. The



W.P.(MD) No.14979 of 2017

WEB COPY

suit was dismissed on 25.01.2017. After the dismissal of the suit, the second respondent has filed an application before the District Collector, Thoothukudi, who had forwarded the same to the first respondent. Treating the said application as an appeal, the first respondent had issued summons to the petitioner and that is sought to be challenged before this Court.

3. A perusal of the summons would indicate that the same is on the basis of the representation received from the second respondent dated 06.07.2017. By this representation, the second respondent seeks to recover and handover the possession of the property from the petitioner and hand over the same to the second respondent. The records would show that earlier one Pitchanatha Muthaliar, who is none other than the second respondent's husband, had filed an appeal regarding the change of patta vide his petition dated 17.04.2009. By an order dated 31.08.2009, the Revenue Divisional Officer, Thoothukudi, had held that the petitioner and his brother had no right to the property comprised in S.No. 83A/1A and had removed the names of persons, who had been listed as serial Nos.2 to 10 (the petitioner and his family members) from the joint patta No.317 and had directed the revenue records to be suitably amended. Against the said



W.P.(MD) No.14979 of 2017

order, the petitioner had filed a Revision before the District Revenue Officer. The District Revenue Officer had passed an order stating that all the proceedings would await the judgment in O.S.No.181 of 2007 and the Revision filed by one Tambidurai was dismissed. Against the above order, no writ petition has been preferred.

4. Meanwhile, the suit filed in O.S.No.181 of 2007 by the family members of the of the petitioner for partition was dismissed and it is after the dismissal of the suit on 25.01.2017, the subsequent representation had been given, based on which the summons had been issued. Therefore, in keeping with the order dated 31.08.2009, wherein the District Revenue Officer had stated that pending the suit, order of the Revision could not be enquired into and orders passed, this Court disposes of this writ petition with the following directions:

i) The challenge to the order of the Revenue Divisional Officer made before the District Revenue Officer shall be restored. The petitioner shall make a representation before the District Revenue Officer, Thoothukudi within a period of two weeks from the date of receipt of a copy of this order.

ii) The District Revenue Officer shall issue notice to the petitioner as well



W.P.(MD) No.14979 of 2017

WEB COPY

as the respondents in the Revision, the husband of the second respondent herein within a period of two weeks from the date of receipt of such Revision, if any.

iii) The representation dated 06.07.2017 made by the second respondent to the Revenue Divisional Officer shall also be heard along with the Revision. The District Revenue Officer shall proceed to hold an enquiry and pass orders. The entire proceedings shall be completed within a period of one month from the date of receipt of a copy of this order.

5. The Writ Petition stands disposed of, with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

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

22.08.2024

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To

The Sub Collector,
Thoothukudi District,
Thoothukudi.

6/7



WEB COPY



W.P.(MD) No.14979 of 2017

P.T.ASHA, J.

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W.P.(MD) No.14979 of 2017

22.08.2024