



W.P.(MD) No.17938 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.17938 of 2017
and
W.M.P.(MD) No.14457 of 2017**

A.Alagar

... Petitioner

/vs./

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Sivagangai Division,
Sivagangai.

3.The Tahsildar,
Tiruppuvanam Taluk,
Sivagangai District.

4.U.Rajamani

5.U.Thangavel

6.U.Ayyanar

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order on the file of 3rd respondent made in Na.Ka.No.A3/1572/2013 dated 21.08.2013 and quash the same and consequently restore the patta pertaining to the lands in an extent of 58 cents in S.No.91/3 and 40 cents of land in S.No.94/5 under patta No.34 of Kaluvankulam Taluk, Tirupuvanam Taluk, Sivagangai District in petitioner's name.

For Petitioner : Mr.S.Ramsundar Vijayraj

For R1 to R3 : Mr.P.Thambidurai
Government Advocate

For R4 to R6 : Mr.N.Thirumal

ORDER

The above writ petition has been filed for the issue of a Writ of Certiorarified Mandamus to quash the order of the third respondent made in Na.Ka.No.A3/1572/2013 dated 21.08.2013 and to restore the patta in favour of the petitioner in respect of the lands in S.No.91/3, measuring an extent of 58 cents, and the land in S.No.94/5, measuring an extent of 40 cents under patta No. 34 at Kaluvankulam Taluk, Tirupuvanam Taluk, Sivagangai District.



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2. The petitioner's contention is that he had been granted patta in respect of the aforesaid properties and his title was recognized even during the Updating Registry Scheme and individual patta was granted vide order dated 12.08.1984 by the competent authority, namely the Special Tahsildar, Updating Registry. The petitioner has been regularly raising paddy crops in the land by paying kist to the Government. He has also been receiving the subsidy that has been provided by the Government during the drought season in respect of the said property on 17.03.2017. However, he came to learn that without notice, the patta, which stood in his name from 1984 onwards, had been transferred in favour of the respondents 4 to 6 vide proceedings in TPT No.A3/1572/2013 dated 21.08.2013.

3. That apart, the respondents 4 to 6 have also filed a suit O.S.No.177 of 2010 on the file of the District Munsif Court, Manamadurai only impleading the Tahsildar seeking a declaration that they are the legal heirs of one Vellaiya Konar, who had died intestate without leaving the legal heirs and for mandatory injunction transferring the patta in patta No.243 in their names. The respondents had impleaded the Tahsildar, Manamadurai. Though the properties were located in Thiruppuvanam without impleading the Tahsildar, Thiruppuvanam. As a result,



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4. A counter has been filed by the third respondent, in which it had been stated that there is no Government interest involved and they are ready to implement any order that are likely to be passed by this Court. Admittedly, notice has not been issued to the petitioner before cancelling the patta and issuing patta in the names of the respondents 4 to 6. That apart, the very decree that had been obtained is questionable. A suit seeking mandatory injunction to grant the patta is by itself not maintainable, since it is the Revenue Authorities, who have to consider the grant of patta.

5. Be that as it may, considering the fact that the impugned order dated 21.08.2013 had been passed without issuing notice to the petitioner, the same is set aside and the matter is remanded back to the third respondent for fresh consideration. The third respondent after issuing notice to the petitioner and the other interested parties, if any, and after hearing them shall pass appropriate



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orders on merits and in accordance with law. The said exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.

6. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

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

02.09.2024

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To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
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P.T.ASHA, J.

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