



W.P.(MD)No.21639 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.11.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE N.MALA**

W.P.(MD)No.21639 of 2017

Pattalammal (Died)

Palanisamy

... Petitioner

(Petitioner is substituted vide court
order dated 25.09.2024 by PTAJ)

/Vs./

1.The District Collector,
Dindigul District.

2.The District Revenue Officer,
Dindigul.

3.The Revenue Divisional Officer,
Dindigul.

4.The Tahsildar,
Dindigul West Taluk,
Dindigul District.

5.Thangavel

6.Rajammal

7.Kamalam

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of certiorarified mandamus to call for the records pertaining
to impugned order of the 4th respondent made in O.Mu.No.8032/2017/



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Aa2 dated 21.10.2017 and quash the same as illegal, consequently direct the respondents 2 to 4 to hold an enquiry and further direct the 2nd respondent to issue a Patta in the name of the petitioner for Survey No. 365/8A to an extent of 21 cents situated at Kuttathupatti Village, Dindigul West Taluk.

For Petitioner : Mr.D.Venkatesh
For R1 - R4 : Mr.A.Kannan
Additional Government Pleader
For R5 - R7 : Mr.T.Lenin Kumar

ORDER

This Writ Petition is filed seeking issuance of Writ of Certiorarified Mandamus to quash the impugned order of the 4th respondent dated 21.10.2017 and for consequential direction to the respondents 2 to 4 to hold an enquiry and to the second respondent to issue a patta in the name of the petitioner for Survey No.365/8A to an extent of 21 cents situated at Kuttathupatti Village, Dindigul West Taluk.

2. Initially, one Pattalammal filed the present Writ Petition. Since she died, her son by name Palanisamy was substituted by this Court vide order dated 25.09.2024.



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3. The brief facts are as follows:

i)The original petitioner namely, Pattalammal averred in the affidavit that initially during settlement period, Patta No.389 was issued in the name of Chidambaram Aasari, her father-in-law, for Survey No. 365/8 and likewise Patta No.689 was issued for Survey No.365/9 in favour of Palanisamy Aasari, the father of the respondents 5 to 7. After the death of her husband, the property in Survey No.365/8 was inherited by the petitioner's son viz., Palanisamy. During UDR scheme, the property in Survey No.365/8 was sub-divided as 365/8A and 365/8B. For Survey No.365/8B, patta was issued in the name of the petitioner's husband and for 365/8A patta was wrongly issued in the name of one S.Palani Asari. Like wise during the UDR scheme for S.No.365/9 patta in Patta No.792 was issued to S.Palanisamy Asari, the father of the respondents 5 to 7.

ii) The fifth respondent made an application before the fourth respondent for issuance of a joint patta in respect of Survey Nos. 365/8A and 365/9. The fourth respondent, without conducting any enquiry on 08.08.2013, passed an order issuing a joint patta in the name of the respondents 5 to 7 in Patta No.2471 for Survey Nos.365/8A & 365/9. The



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petitioner's son on coming to know of the mistake, submitted an application on 26.08.2013, to the fourth respondent to rectify the defect and to cancel the patta in favour of the respondents 5 to 7. The third respondent on 23.01.2015, sought for a report from the fourth respondent and in turn, the fourth respondent sent a reference dated 09.03.2015 to the Village Administrative Officer calling for report. Meanwhile, the respondents 5 to 7 filed a suit for injunction in O.S.No.311 of 2015 and the petitioner's son entered appearance and filed a written statement. On 21.03.2017, the third respondent issued summons to the petitioner's son for appearing in the enquiry and thereafter there was no progress. The petitioner's son therefore submitted a representation to the first respondent on 11.09.2017. Thereafter, on 21.10.2017, the fourth respondent passed the impugned order rejecting the petitioner's claim by citing the pendency of O.S.No.311 of 2015. Aggrieved by the impugned order, the petitioner filed the present Writ Petition.

4. The learned counsel for the petitioner submitted that wrong entry in the patta for S.No. 365/8A was made during UDR scheme. Therefore, it was the 2nd respondent, who was the competent authority to



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pass orders under the Patta Passbook Act and as such, the fourth respondent had no jurisdiction to pass the impugned order.

5. The Additional Government Pleader appearing for the respondents 1 to 4 conceded that the impugned order passed by the fourth respondent was without jurisdiction as the District Revenue Officer was the competent authority to cancel the patta issued under UDR scheme.

6. Heard the learned counsel for the petitioner, the learned Additional Government Pleader and the learned counsel for the respondents 5 to 7.

7. Since the impugned order is passed by the fourth respondent without jurisdiction, this Court is inclined to set aside the same. Accordingly, the impugned order is set aside with the following directions:

i) The petitioner is directed to submit a fresh application to the second respondent within a period of two weeks from the date of receipt



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of a copy of this order;

ii) On receipt of the said application, the second respondent shall issue notice of enquiry to the petitioner as well as to the respondents 5 to 7 within a period of two weeks from the date of receipt of the application;

iii) The respondents 5 to 7 are at liberty to raise all objections available to them.

iv) After completion of enquiry, the second respondent shall pass orders on merits and in accordance with law.

v) The entire exercise shall be completed within a period of eight weeks from the date of commencement of enquiry proceedings.

8. With the above directions, this Writ Petition is allowed. No costs.

05.11.2024

Index : Yes / No
NCC : Yes / No
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N.MALA, J.

CM

Order made in
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Dated:
05.11.2024