



W.P.(MD)No.28969 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.12.2024**

CORAM:

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

W.P.(MD)No.28969 of 2024

and

W.M.P.(MD)No.24541 of 2024

Avudaithai

...Petitioner

/Vs./

- 1.The Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Land Disposal Wing, [LD3 (1)] Section,
Secretariat, Chennai-600 009.
- 2.The District Collector,
District Collector Office,
Tenkasi District.
- 3.The District Adi Dravidar and Tribal Welfare Officer,
Near to District Collector Office,
Tenkasi, Tenkasi District.
- 4.The Revenue Divisional Officer,
Sankarankovil, Tenkasi District.
- 5.The Thasildar,
Taluk Office, Thiruvengadam,
Tenkasi District.

... 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 the impugned order passed by the Respondent No.5 vide proceedings in TGMTLK/289/2024/B2 dated 16.09.2024 and quash the



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same as illegal and direct the Respondents to issue online E-Patta to the Petitioner for the Plot No.76 situated in Survey No.364 (Old No.207/2B), South Kuruvikulam, Thiruvengadam Taluk, Thenkasi District as per the Government Order issued by the 1st Respondent in G.O.M.S.No.34 dated 13.01.2021 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Karunanidhi
For Respondents : Mr.A.Muthumanikkam
Government Advocate

ORDER

The writ petition is filed for Certiorarified mandamus to quash the order of the fifth respondent dated 16.09.2024 and for directing the respondents to issue e-patta to the petitioner for Plot No.76 situate in Survey No.364 (Old No.207/2B), South Kuruvikulam, Thiruvengadam Taluk, Thenkasi District as per the Government Order issued by the 1st Respondent in G.O.M.S.No.34 dated 13.01.2021.

2.Mr.M.Muthumanikkam, learned Government Advocate, takes notice for the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.



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4.The petitioner was allotted with house site assignment patta by the Special Tahsildar, Adi Diravidar Welfare Office, Sankarankovil on 30.06.1989. The petitioner was allotted with Plot No.76 to an extent of 3 cents and the petitioner was in possession and enjoyment of the same from the date of assignment. The petitioner had earlier put up a mud structure which got damaged, the petitioner therefore, approached the Tahsildar to conduct survey and fix boundaries of the property to enable her to reconstruct the house. The petitioner paid necessary fee for the same on 05.06.2023. As no action was taken by the fifth respondent, the petitioner filed writ petition in W.P.(MD)No.20401 of 2023 for survey and demarcation of the boundaries of the property. This Court by order dated 22.08.2023 directed the Tahsildar to measure the property. Subsequently the petitioner's property was measured and the four boundaries were fixed.

5.While so, the petitioner based on the Government order in G.O.No.34 dated 13.01.2021, submitted a representation for grant of online patta on 21.02.2023, 29.11.2023 and 12.09.2024. As the respondent did not act upon the said representations, the petitioner filed writ petition before this Court in W.P.(MD)No.27947 of 2024 and at the time of admission, the learned Government Pleader submitted that the



fifth respondent had passed the order impugned. This Court therefore, disposed of the said writ petition with liberty to the petitioner to challenge the said order. The petitioner therefore filed the above writ petition for the aforesaid relief.

6.The learned counsel for the petitioner submitted that the impugned order deserved to be set aside for gross violation of the principles of natural justice and also for the violation of the provisions of Section 10 of the Patta Passbook Act. The learned counsel submitted that though statutory remedy was available under Section 12 of the Patta Passbook Act, the petitioner directly approached this Court because of the aforesaid violations.

7.The learned Government Advocate, on instructions, fairly submitted that no notice as contemplated under Section 10 of the Patta Passbook Act, was issued to the petitioner before passing the impugned order.

8.I have considered the submissions made on either side and perused the materials placed on record.



9. Before advertent to the merits of the matter, it will be useful to refer Section 10 of the Patta Passbook Act. It reads as under:

“ 10. Modification of entries in the patta pass book.

(1) Where any person claims that any modification is required in respect of any entry in the patta pass book already issued under section 3 either by reason of the death of any person or by the reason of the transfer of the land or by reason of any other subsequent change in circumstances, he shall make an application to the Tahsildar for the modification of the relevant entries in the patta pass book.

(2) An application under sub-section (1) shall contain such particulars, as may be prescribed, and shall be accompanied by the documents, if any, relied on by the applicant as evidence in support of his claim.

(3) (a) Before passing an order on an application under sub-section (1), the Tahsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the parties concerned to make their representations either orally or in writing. If the Tahsildar decides that any modification should be made in respect of entries in the patta passbook, he shall pass an order accordingly and shall make such consequential changes in the patta pass book, as appear to him to be necessary, for giving effect to his order.

(b) If the Tahsildar decides that there is no case for effecting any modification of the entries in the patta pass book, he shall reject the application.

(c) An order under clause (a) or clause (b) shall contain the



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reasons for such order and shall be communicated to the parties concerned in such manner as may be prescribed.”

10.The Patta Pass Book Rules also provide for notice of enquiry and hearing. The relevant rule is Rule 4. It is therefore mandatory to conduct an enquiry and to give opportunity of hearing before passing order under Section 10 of the Act r/w Rule 4 of the Patta Pass Book Rules.

11.In the impugned order, it is nowhere stated that notice of enquiry was issued to the petitioner in terms of Section 10 of the Patta Passbook Act r/w Rule 4 of the Patta Pass Book Rules. As no notice of enquiry was issued to the petitioner, it is clear that there has been a gross violation of not only principles of natural justice but also the provisions of the Patta Passbook Act and the Rules.

11.Therefore, the order impugned in this writ petition dated 16.09.2024 cannot be sustained and the same is set aside. The matter is remitted to the fifth respondent for fresh consideration. The fifth respondent is directed to strictly follow the procedure contemplated under Section 10 of the Patta Passbook Act r/w Rule 4 of the Patta Pass Book Rules and pass orders on merits and in accordance with law by

<https://www.mhc.tn.gov.in/> considering G.O.Ms.No.34 dated 13.01.2021.



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12.This writ petition is accordingly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

NCC : Yes / No

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N.MALA, J.

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