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W.P.No.3203 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 3203 of 2025

&

W.M.P. No. 3549 of 2025

G.Kathirvelu

...Petitioner

Vs.

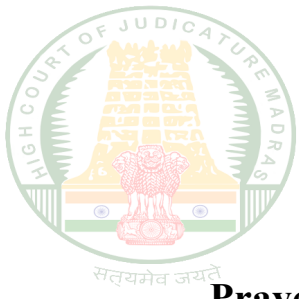
1.The Director of Survey and Settlement,
Survey and Settlement Department,
Chepauk,
Chennai 600 005

2.The District Collector
Collectorate,
Dindigul District 624 004

3.The District Revenue Officer
Collectorate,
Dindigul District 624 004

4.The Revenue Divisional Officer
Kodaikanal,
Dindigul District 624 101

...Respondents



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Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus to call for the records of the proceedings relating to impugned order in proceedings bearing Na.Ka.a2/346/2023, dated 20.12.2024 passed by the 1st respondent and order of the 4th respondent in proceedings bearing Na.Ka.No. 701a/2019/a2, dated 21.11.2019 and quash the same as arbitrary and illegal and consequentially direct the respondents to restore the patta in the name of the petitioner and the classification of the land as Ryotwari as it was then existing prior to the order dated 21.11.2019 of the 4th respondent.

For Petitioner	:	Mr. Sharath Chandran For Mr. P.S.Prabu
For Respondents	:	Mr. A.Selvendran Special Government Pleader



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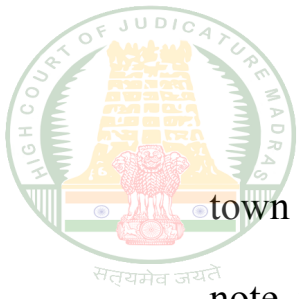
ORDER

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Challenging the order dated 20.12.2024 passed by the 1st respondent and the order dated 21.11.2019 passed by the 4th respondent, the petitioner is before this Court seeking a relief of certiorarified mandamus to quash the aforesaid proceedings and restore patta in the name of the petitioner as well as to restore the classification of the lands as Ryotwari as it held prior to the order dated 21.11.2019.

2. The facts which have culminated in the filing of the Writ Petition is set out herein below. The petitioner purchased an extent of 89 cents from one Jasmine under a registered sale deed dated 25.10.2006 for an extent of 41 cents and sale deed dated 27.12.2006 in respect of the property measuring 48 cents. After his purchase the petitioner had mutated the revenue records and got the patta transferred in his name. The lands were subdivided and assigned new town survey No.17/2.

3. While so on 05.10.2022 when the petitioner downloaded the



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town survey land register in respect of his property he was surprised to note that the land had been categorised as “Government Tharisu”.

There was nothing to show as to when and how the reclassification had taken place. The petitioner immediately sought the details from the respondents under the RTI Act. The petitioner was provided with the copy of the letter dated 21.11.2019 addressed by the 4th respondent to the 1st respondent.

4. Since the notice was not served upon the petitioner, the petitioner filed a petition dated 29.11.2022 and 14.12.2022 before the 1st respondent seeking cancellation of the proceedings under which the patta had been cancelled and the reclassification as Government Waste land has been unilaterally done. The 1st respondent without a proper appreciation of law and facts has passed the impugned order, which also confirmed the order of the 4th respondent dated 21.11.2019. Therefore, the petitioner is before this Court.

5. Heard the learned counsels on the either side and perused the



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6. A perusal of the records would show that originally the property belonged to one Manoharan James. He had settled an extent of the subject land measuring 1.11 acres in favour of his wife under a settlement deed dated 07.09.2006. It appears that the revenue records had been wrongly classified as Waste Dry land and the said Manoharan James made application to the Assistant Settlement Officer, Maduri for rectifying the same. After a detailed enquiry the authorities had changed the records from waste dry land to agricultural land and thereafter issued patta to the said Manoharan James by order dated 16.05.2001.

7. Thereafter a portion of this land measuring 41 cents and 48 cents were sold to the petitioner under two sale deeds dated 25.10.2006 and 27.12.2006. Later, the property has been subdivided and patta No.279 was issued to the petitioner. Therefore, the reclassification of the land into Government Tharisu (waste land) without notice to the



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petitioner is clearly a violation of the principles of natural justice.

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8. A perusal of the order dated 21.11.2019, which is the basis on which the classification had been changed and patta cancelled would show that there is no notice issued to the petitioner. It appears that the 4th respondent has sent a letter to the 1st respondent which states that fraudulent pattas which have been issued without sanction from higher authorities or the Government, had been cancelled and list of survey numbers and lands in question had been set out in this letter. The petitioner's land has been described in S.No.10 in the tabulated statement and the Tahsildar, Kodaikanal has requested a report about the genuineness of the orders passed by the Assistant Settlement Officer in respect of the lands therein.

9. Thereafter, it appears that on 29.11.2019, the Director of Survey and Settlement had addressed a letter to the Revenue Divisional

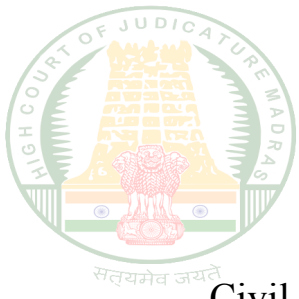


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Officer, Kodaikanal. The letter would state that the Principal Secretary / Commissioner of Survey and Settlement Department in his proceedings dated 28.02.2017 cancelled the orders passed by the Assistant Settlement Officer.

10. A mere perusal of the impugned order would show that no notice whatsoever has been given to the land owners and it is a suo motu order that has been passed. This order has now been confirmed by the 1st respondent without considering that the original authority had passed order without notice to the affected parties, namely, the land owners. The land owners have been deprived of their property without giving them a hearing. Therefore, the order suffers from the right of fair hearing.

11. The principles of audi alteram partem lies at the heart of very procedural fairness which takes within itself the principle that no person should be condemned unheard.



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12. In the recent Judgement of the Hon'ble Supreme Court in Civil Appeal No.4806 of 2011, the learned Judges had relied upon the Judgements of ***Mohinder Singh Gill Vs. Chief Election Commissioner*** – (1978) 1 SCC 405, ***Swadeshi Cotton Mills Vs. Union of India*** – (1981) 1 SCC 664 and ***Maneka Gandhi Vs. Union of India*** – (1978) 1 SCC 248, and observed that in case of ***Maneka Gandhi Vs. Union of India*** – (1978) 1 SCC 248 Justice Bhagwati described natural justice as a profound humanising principle designed to imbue the law with fairness and ensure justice. This principle has garnered widespread recognition across democratic societies and has evolved into a universally accepted rule, influencing areas of administrative decision making.

13. The learned Judges had gone to observe as follows:

“The opportunity of hearing is considered so fundamental to any civilised legal system that the Courts have read the principles of natural justice into an enactment to save it from being declared unconstitutional



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on procedural grounds.”

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14. Further, the learned Judges have also considered the issue as to whether the denial of natural justice at the initial stage can be cured by the appellate body. Ultimately, the learned Judges concluded as follows:

“68.The principal of audi alteram partem is the cornerstone of justice, ensuring that no person is condemned unheard. This principle transforms justice from a mere technical formality into a humane pursuit. It safeguards against arbitrary decision making and is needed more so in cases of unequal power dynamics”.

15. The facts of the instant case is also similar. Therefore, the order passed by the 4th respondent in his proceedings dated 21.11.2019 and the order passed by the 1st respondent in his proceedings dated 20.12.2024 are quashed. The matter is remitted back to the 4th respondent for fresh consideration after issuing notice to the petitioner



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and to pass orders, within a period of two months from the date of receipt of a copy of this order.

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16. The Writ Petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

31.01.2025

Index : Yes/No
Internet : Yes/No

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To

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