



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.01.2025**

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P(MD)NO.2224 OF 2025

and

W.M.P(MD)Nos.1596 and 1598 of 2025

M.Aruna

: Petitioner

.VS.

1.The Tahsildar,
Agasteeswaram Taluk,
Kanyakumari District.

2.The Zonal Deputy Tahsildar,
Agasteeswaram Taluk,
Kanyakumari District.

3.The Village Administrative Officer,
Azhagappapuram,
Agasteeswaram Taluk,
Kanyakumari District.

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned rejection order passed by the first respondent vide File No.2024/0103/30/676064, dtd 29.08.2024 and quash the same as illegal and consequently to direct the first respondent to transfer the patta for the land in S.No.241/11 and 241/8 in the name of the Petitioner within the time stipulated by this Court.



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For Petitioner :Mr.G.Anto Prince

For Respondents :Mr.A.Kannan
1 to 3 Addl.Govt.Pleader

ORDER

This Writ Petition is filed for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned rejection order passed by the first respondent vide File No. 2024/0103/30/676064, dated 29.08.2024 and quash the same as illegal and consequently to direct the first respondent to transfer the patta for the land in S.No.241/11 and 241/8 in the name of the Petitioner within the time stipulated by this Court.

2.Mr.A.Kannan, learned Additional Government Pleader takes notice for the respondents 1 to 3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The Petitioner purchased the property to an extent of 78.75 cents in S.No.241(41.25 cents) and S.No.241/11(37.50 cents) in Azhagappapuram Village, Agasteeswaram Village, Kanyakumari District, vide the registered sale deed, dated 5.7.2007. Eversince the date of purchase, the petitioner is in peaceful possession and



enjoyment of the same. The Petitioner states that earlier, the Petitioner's vendor filed a suit in O.S.No.14 of 1976 for declaration of title and injunction, against the Hindu Religious and Charitable Endowments Department, and the case was taken up to the Honourable High Court in S.A.No.74 of 1984 and the vendor/temple's title was upheld. In pursuant to the judgment in the Second Appeal, the vendor/temple passed a resolution on 20.05.2007, to sell the property in its interest. The said facts are incorporated in the Petitioner's sale deed. While so, the Petitioner made an online application for transfer of patta on 17.08.2024 to the first respondent. The first respondent without conducting an enquiry, rejected the Petitioner's Petition on the ground that the property belonged to the HR and CE Department. Aggrieved by the said order, the petitioner has filed the above Writ Petition for the aforesaid relief.

4. The learned counsel for the Petitioner submitted that the impugned order is very cryptic and the same was passed in violation of principles of natural justice and the provisions of Section 10 of the Patta Passbook Act, r/w Rule 4 of the Rules. The learned counsel therefore submitted that the impugned order deserved to be set aside on the aforesaid grounds.



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5. On a perusal of the impugned order, it is seen that the said order was passed without serving any notice of enquiry to the Petitioner and any other interested persons and without conducting any enquiry as contemplated by Section 10 of the Patta Passbook Act r/w Rule 4 of the Rules. The Act and the Rules clearly state that while considering the application for patta, 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. As no notice of enquiry was served on the Petitioner, in my view, the impugned order is violative of Section 10 and Rule 4(2) of the Patta Passbook Rules and therefore, the impugned order cannot be sustained.

6. In view of the above, the impugned order is set aside and the matter is remitted to the first respondent for fresh consideration. The first respondent shall strictly follow the provisions of Section 10 of the Patta Passbook Act r/w Rule 4(2) of the Patta Passbook Rules and thereafter, pass orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.



7.The Writ Petition is accordingly allowed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

28.01.2025

NSC :Yes/No
Index:Yes/No
Internet:Yes/No

vsn

To

- 1.The Tahsildar,
Agasteeswaram Taluk,
Kanyakumari District.
- 2.The Zonal Deputy Tahsildar,
Agasteeswaram Taluk,
Kanyakumari District.
- 3.The Village Administrative Offier,
Azhagappapuram,
Agasteeswaram Taluk,
Kanyakumari District.



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N.MALA, J.

vsn

ORDER MADE IN
W.P(MD)NO.2224 OF 2025
and
W.M.P(MD)Nos.1596 and
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28.01.2025