



W.P.(MD)No.4734 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2025

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.4734 of 2023

and

W.M.P.(MD)Nos.4437, 4442 & 4446 of 2023

1.Urmila Bhuvanesh
rep. through her power agent
Poornima Sivaprasad

2.Poornima Sivaprasad

3.Vikranth Gopula
rep. through her power agent
Poornima Sivaprasad

... Petitioners

/Vs./

1.The Revenue Divisional Officer,
Madurai West, Madurai District.

2. The Tahsildar
Madurai West, Madurai District.

3. Jeevanandam

4.Jeganathan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent dated 23.09.2022 in proceedings Ne.Mu.5933/2022(B) and the consequential Town Survey Land Register dated 1.12.2022 in respect of the property comprised in S.No. 58/7BPt (S.F.No.130) Kochadai Village



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Madurai District to an extent of 3 ares 55 Sq.meter Kochadai Village Madurai District quash the same as the same is arbitrary ultravires in violation of principles of natural justice Audi Alteram Partem.

For Petitioners : Mr.R.G.Shankar Ganesh

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1&2

: No appearance for R3 & 4

ORDER

The writ petitioner has filed this writ petition challenges the order of the first respondent dated 23.09.2022.

2. The primordial contention of the learned counsel for the petitioners challenging the impugned order is that the said impugned order has been passed behind the back of the petitioners and without giving any notice, thereby violating the principles of natural justice.

3. The learned counsel for the petitioners would submit that the property measuring one Acre belonged to one Sivanath and his wife Rameela and they were not blessed with any child. The petitioners are the close relatives of the said two persons and an extent of 60 cents, out



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of total extent of one Acre, was purchased by the petitioners in and by way of four sale deeds, the remaining 40 cents was also bequeathed to the writ petitioners under the Will and the Will was executed by Rameela in favour of the petitioners. While so, the 3rd respondent hacked the web-site of the registration authorities and created fabricated documents. and also executed power of attorney in favour of the 4th respondent, based on which, they have moved the first respondent for mutation of records in their name. When the Town Survey Land Register (TSLR) stood in the name of the petitioners, the first respondent ought not to have proceeded to act on the application of the respondents 3 and 4, without issuing a proper notice and without hearing the objections of the petitioners in whose names, admittedly, the TSLR was mutated.

4. Despite entering appearance, the respondents 3 and 4 have not chosen to file a counter. The writ petition is pending from March 2023 onwards. Despite sufficient opportunity to the respondents 3 and 4, they have not chosen to diligently contest these proceedings.



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5. I have proceeded to hear the learned counsel for the petitioners, Mr.R.G.Shankar Ganesh and Mr.B.Saravanan, learned Additional Government Pleader for the official respondents.

6. The only objection raised by learned Additional Government Pleader is that the impugned order is appealable under the provisions of the Patta Passbook Act and therefore, without availing the alternate remedy, the petitioners have filed the present petition and therefore, he prayed for dismissal of the writ petition.

7. As already discussed, the ground on which the impugned order is challenged is that no notice was issued to the petitioners in whose name was already mutated on the date of the impugned order had been passed. Therefore, there is a clear violation of principles of natural justice and despite the existence of an alternate remedy, this Court can certainly interfere and exercise power under Article 226 of the Constitution of India.



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8. I have also perused the counter affidavit filed by the Revenue Divisional Officer, viz., the first respondent, and there is no denial of the positive averments made by the petitioners that the impugned order came to be passed without notice to the petitioners. Hence, the impugned order deserves to be set aside.

9. The learned counsel for the petitioners also submitted that even the power of attorney has been subsequently cancelled. Therefore, the petitioners and the 3rd respondent alone shall be heard afresh

10. Accordingly, the impugned order passed by the first respondent dated 23.09.2022 is set aside. The matter is remitted to the first respondent for fresh consideration of the application made by third respondent, after affording a fair opportunity to the petitioners as well as the third respondent. The fourth respondent, only being a power agent, his presence may not be necessary. The first respondent shall pass a considered order on merits and in accordance with within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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11. This writ petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
LS

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TO:-

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Madurai West,
Madurai District.
2. The Tahsildar
Madurai West,
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P.B. BALAJI, J.

LS

Order made in
W.P.(MD)No.4734 of 2023

Dated:
27.02.2025
(3/8)