



W.P.(MD)No.901 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.901 of 2016

and

W.M.P.(MD)Nos.687, 688 & 13196 of 2016

Pitchaimuthu

... Petitioner

/Vs./

- 1.The District Collector,
District Collector Office,
Trichy-1, Trichy District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Lalkudi, Trichy.
- 3.The Tahsildar,
Taluk Office,
Manachanallur, Trichy District.

4.A.Renganathan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records pertaining to the impugned orders passed by the Revenue Divisional Officer, the second respondent herein in Na.Ka.A2/1905/2015 dated 20.09.2015 and the consequential order passed by the Tahsildar, the third respondent herein in Na.Ka.No.A2-79-2015 dated ..10.2015 and quash the same as illegal.



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For Petitioner : M.R.Rajaraman

For Respondents : Mr.S.Kameswaran
Government Advocate for R1-3

: Ms.J.Maria Roseline for R4

ORDER

The writ petitioner challenges the impugned order passed in Na.Ka.A2/1905/2015 dated 20.09.2015 mainly on the ground that no opportunity was given to the petitioner before the impugned order came to be passed.

2. I have heard M.R.Rajaraman, learned counsel for the petitioner, Mr.S.Kameswaran, learned Government Advocate for the respondents 1 to 3 and Ms.J.Maria Roseline, learned counsel for the fourth respondent.

3. It is the categorical case of the writ petitioner that he moved this Court in W.P.(MD)No.9651 of 2013 and the Division Bench of this Court by order dated 03.07.2013, directed the Tashildar, viz., third respondent herein to consider the petitioner's representation and despite the order in the writ petition, no opportunity was given. Therefore, he would submit that on this ground alone, the writ petition deserves to be entertained and



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the impugned order is liable to be set aside.

4. The learned counsel appearing for the 4th respondent would submit that the subject matter of dispute in the writ petition filed by petitioner in W.P.(MD)No.9651 of 2013 was pertaining to entirely different survey numbers, namely, 32/5, 34/1B and 37, in respect of which alone the petitioner has given a representation on 05.06.2013 and thereafter approached this Court in the above writ petition. Therefore, the order passed in the writ petition will not stand in the way of the authorities, considering the subsequent order passed by this Court in W.P. (MD) No. 10723 of 2013, which specific reference to issue of patta in S.F.No.36/3H1B and S.F.No.36 /1 dated 04.07.2013.

5. The learned Government Advocate, Mr.S.Kameswaran, would further submit that the case of the petitioner that there is a cart track in survey No.32/5, 34/1B and 37 is incorrect, excepting for the existence of cart track in S.F.No.36/3. He would further submit that in line with the argument of the learned counsel for the 4th respondent, the lands in S.F.No.36 /3 were not in anyway connected in the order passed on



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20.09.2015 by the second respondent, which pertained only to S.F.No. 36/3H1B and nothing to do with the order passed in W.P.(MD)No.9651 of 2013. Therefore, it is contended by the respondents that the petitioner was not required to be put on notice, since the subject matter, which was under consideration in the impugned order, was pertaining only to S.F.No. 36/ 3H 1B and not the other survey numbers, in respect of which the petitioner filed W.P.(MD)No.9651 of 2013.

6. It is also further contended by the learned counsel for the 4th respondent that the Panchayat Union without even regarding land acquisition proceedings, laid Thar road in the 4th respondent's property in S.F. No.36/ 3H1 and subsequently, S.F.No.36/3H1 was further subdivided as S.F.No.36/3H1A and 36/3H1B and insofar as 11 cents in S.F.No.36/3H1A, patta has been mutated in the name of the 4th respondent's father, in respect of the house portion of 15 cents in S.F.No. 36/3H 1B, the same was classified as vacant land under the Natham Resettlement and it is only in respect of the said wrong classification, the 4th respondent moved this Court in W.P.(MD)No.10723 of 2013 and thereafter, the second respondent after conducting an enquiry, directed



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issuance of patta in respect of the survey No.36/3H1B to an extent of 464 square meters, excluding the Thar Road portion of 132 square meters. The learned counsel of the 4th respondent would therefore submit that the petitioner is no way aggrieved by the said impugned order of the second respondent, which has been subsequently implemented by the 3rd respondent.

7. I have carefully considered the submissions advanced by the learned counsel on either side.

8. As rightly contended by the respondents, the case of the petitioner in the writ petition in W.P.(MD)No.9651 of 2013 was no doubt pertaining to a common path way, but in the writ petition, the petitioner has restricted his claim only to three survey numbers, which is not covering the subject survey No. 36/3H1. Even the representation sent by the petitioner was only in respect of totally different survey numbers and thereafter the writ petition came to be disposed of, with a direction to the authority to consider the petitioner's representation on merits and after hearing the petitioner and other interested parties. Parallely, the 4th



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respondent, who lost her valuable patta lands by way of forcible dispossession, without resorting to acquisition proceedings, filed W.P.No. 10723 of 2013 and in the said writ petition also there was a direction to the authorities to consider the petitioner's request for issuance of Patta. Acting on the said representation, in respect of S.F.No.36/3H1 alone, the impugned order has been passed by the respondents, which is now under challenge at the instance of the petitioner. It is not the case of the petitioner that he owns the subject lands in S.F.No.36/3H1. It is only his case that the said survey number is classified as a “pathway” and therefore, patta granted to the 4th respondent is unsustainable and liable to be cancelled.

9. However, through the earlier proceedings, the petitioner has never included survey number 36/3H1 either in his representation or in the prayer in the writ petition filed by him in W.P.(MD)No.9651 of 2013. Therefore, he now contended that he was not given an opportunity in pursuance of the order passed in entirely different writ petition at the instance of the 4th respondent in W.P.(MD)No. 10723 of 2013 cannot be countenanced. This Court by order dated 04.07.2013, entertaining the



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writ petition of the 4th respondent, directed the Tashildar, to issue notice to parties concerned and pass appropriate orders on the petitioner's representation dated 29.04.2013. It is only pursuant to the said orders that the Tashildar has undertaken that the exercise of conducting an enquiry and after finding that the portion of the property measuring 132 square metres has already been laid as a “Thar road” excluding said portion, in respect to the balance portion, the Sub Collector has granted direction to issue patta, which has been subsequently implemented by the Tashildar, Manachanallur.

10. Therefore, I do not find that the petitioner being aggrieved by the said proceedings and the petitioner admittedly does not have any subsisting interest in Survey No.36/3H1 and therefore, he was not entitled to any notice, despite the direction of this Court in W.P.(MD)No. 10723 of 2013, directing notice to be issued to all parties concerned. The petitioner does not qualify to be a party concerned in respect of S.F.No. 36/3H 1B, which is clearly evident from the fact that his representation before filing W.P.(MD)No.9651 of 2013 as well as in the said writ petition, he did not mention the survey number S.F.36/3H1.



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11. Therefore, I do not find any infirmity or illegality in the order passed by the second respondent, which has been subsequently implemented by the third respondent. I do not find any merit in this writ petition.

12. Accordingly, this Writ Petition is dismissed. 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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P.B. BALAJI, J.

LS

Order made in
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