



W.P.(MD) No.26828 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD) No.26828 of 2024

1. A.Andal

2 A.Shanthi

3 A.Kayambu

4 V.Saradha ... Petitioners

Vs

1 The District Collector,
Theni District.

2 The Revenue Divisional Officer,
Periyakulam,
Theni District.

3 The Tahsildar,
Theni Taluk and District.

4 P.Saravanan ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in Impugned Proceedings in Na.Ka.No.



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5067/2019/A1 dated 26.07.2022 and quash the same as arbitrary, illegal, and violation of principles of natural justice and consequently directing the Respondents 1 to 3 herein to restore the patta Nos.3027, 3026, 3023, and 3021 in favour of the petitioners with respect to their plots situated in S.Nos. 952/1H, 952/1G, 952/1D, and 952/1A respectively, in Oonjampatti Village, Theni Taluk and District, and restore the same in the official website of the Tamil Nadu Revenue Department.

For Petitioners : Mr.S.I.Muthiah

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

ORDER

This Writ Petition is filed for certiorarified mandamus, to call for the records of the 2nd Respondent in impugned proceedings in Na.Ka.No. 5067/2019/A1, dated 26.07.2022, and quash the same as arbitrary, illegal, and in violation of principles of natural justice and consequently direct the Respondents 1 to 3 herein to restore the patta Nos.3027, 3026, 3023, and 3021 in favour of the petitioners with respect to their plots situated in S.Nos. 952/1H, 952/1G, 952/1D, and 952/1A respectively, in Oonjampatti Village, Theni Taluk and District, and also restore the same in the official website of the Tamil Nadu Revenue Department.



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2. The petitioners 1 to 4 purchased the subject properties under registered sale deeds, dated 16.02.2007 and 23.02.2007, from one V.Sagadevan vide document Nos.1104,1106,1109 and 1307. The petitioners subdivided the property among themselves. On 03.09.2007, the subject property was subdivided into plots and pattas were issued by the third respondent in favour of the petitioners in patta Nos.3027, 3026, 3023 and 3021. While so, in December,2022, the petitioners came to know that their names were removed in the online Patta, that too without any notice to them. Therefore, the petitioners sent representations, dated 29.12.2022 and 10.03.2023, to the second respondent for restoration of pattas. The second respondent, on 04.04.2023 and 09.11.2023, sent communications to the third respondent to conduct field inspection and enquiry and submit a report to him. Since there was no action, the petitioners filed W.P.(MD) No.5531 of 2024 for a mandamus, directing the third respondent herein to conduct an enquiry and consequently restore the pattas, pertaining to the petitioners' lands in Survey Nos.952/1H, 952/1G, 952/1D and 952/1A. During the pendency of the said writ petition, the second respondent herein passed the impugned proceedings, dated 26.07.2022. Therefore, this Court disposed of the said writ petition, granting liberty to the petitioners to challenge the impugned



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proceedings, dated 26.07.2022. Challenging the said proceedings, the petitioners filed the above Writ Petition for the aforesaid relief.

3. Learned counsel for the petitioners submits that a bare reading of the impugned order would show that neither notice of enquiry was sent nor an opportunity of hearing was afforded to the petitioners. The counsel submits that as the impugned order was passed in gross violation of the principles of natural justice, on that short score, the impugned order was liable to be set aside.

4. I have heard the learned counsel for the parties and also perused the materials available on record.

5. From the impugned order, it is seen that one Mani and one Murugan alone attended the enquiry. The impugned order recites that notice was sent to all parties and the petitioners failed to appear for enquiry. A bare statement in the impugned order that notice was sent to all parties without any supporting material cannot be accepted. The Rule provides that notice is to be issued under Certificate of Posting. There is no proof that notice was sent to the petitioners by Certificate of Posting. Even otherwise, under Section 27 of the General Clauses Act, presumption of service could be invoked only if the notice was sent by registered post with acknowledgment due to the correct address. There is no presumption of service for any other mode. I am,



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therefore, of the view that the impugned order, cancelling the petitioners' pattas without notice, is liable to be set aside and the same is set aside. The matter is remanded to the second respondent for fresh consideration. Needless to say that the second respondent shall issue proper notice to the petitioners, conduct an enquiry, afford them an opportunity of hearing and thereafter pass orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

6. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.(MD) No.22734 of 2024 is closed.

22.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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