



W.P.(MD)No.30819 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.30819 of 2024
and WMP(MD)No.25899 of 2024

D.Doss

... Petitioner

/Vs./

1. The District Collector,
Theni District

2. The Revenue Divisional Officer,
Uthamapalayam,Theni District.

3. The Tahsildar,
Uthamapalayam Taluk,
Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relates to the impugned order passed by the second respondent in Mu.Mu.4263/2024/A3 dated 04.11.2024 and quash the same as it is arbitrary and illegal.

For Petitioner : Mr.R.Surya Narayanan

For Respondents : Mr.A.Kannan

Additional Government Pleader

ORDER

This writ petition is filed for Writ of Certiorari to call for the records relating to the impugned order passed by the 2nd respondent in



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Mu.Mu.4263/2024/A3 dated 04.11.2024 resuming the petitioner's lands and to quash the same as illegal.

2. With consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner purchased the lands measuring an extent of 1.10.00 hectares in Sy.Nos.95/1S, 95/1E, 95/1D, 95/1V, 95/1R, 95/1Q, 95/1P, 95/1C and 95/1B, in Ersakkanayanur (Hill), in Uthamapalayam Taluk, Theni District, under a registered sale deed dated 12.02.2014. Ever since the purchase, the petitioner was in possession and enjoyment of the property. Patta was also mutated in his favour in Patta Nos.183 and 184. The petitioner's labourers cut off some country trees in his patta land and therefore, the fourth respondent made a spot inspection on 11.02.2023. The fourth respondent found that 100 trees were cut down without permission. In pursuance of the fourth respondent's spot inspection conducted on 11.02.2023, the petitioner's entry to use the estate road to reach the petitioner's estate, was restricted. The petitioner therefore approached the fourth respondent and requested him to permit



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him to use the road. The petitioner came to know that in the guise of taking action for cutting the trees in the petitioner's patta land, without permission, the fourth respondent, instead of taking action in the manner known to law, restricted his ingress and egress to his estate. As the Forest Department restricted the petitioner from entering his land, the petitioner filed WP(MD)No.24745 of 2023, and the said Writ Petition was dismissed and therefore, the petitioner filed a Writ Appeal in WA(MD)No.833 of 2024 and the same is pending. During the pendency of the writ appeal, the Revenue Divisional Officer ordered for resumption of the petitioner's land by cancelling the assignment order, without any enquiry or opportunity of hearing to the petitioner and therefore, the petitioner was constrained to file the above writ petition challenging the same.

4. The learned counsel for the petitioner submitted that the impugned order was ex-facie illegal as no notice of enquiry was issued to the petitioner and no opportunity of hearing was given to the petitioner before passing the impugned order, which is in violation of principles of natural justice. The learned counsel therefore submitted that the



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impugned order deserved to be set aside.

5. The learned Additional Government Pleader, on instructions, fairly submits that no notice of enquiry or opportunity was given to the petitioner. The learned Additional Government Pleader therefore submitted that the matter may be remanded for fresh consideration to the Revenue Divisional Officer.

6. I have given my anxious consideration to the submissions made on either side and perused the materials available on record.

7. A perusal of the impugned order shows that no enquiry was conducted and no opportunity of hearing was afforded to the petitioner before cancelling the assignment order of the petitioner. Even the Additional Government Pleader appearing for the respondents, on instructions, fairly conceded that no notice of enquiry was sent and no opportunity of hearing was given to the petitioner before passing the impugned order.



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8. Under the circumstances, I am of the view that as the impugned order was passed without issuing notice to the petitioner and without giving opportunity of hearing to the petitioner in violation of principles of natural justice, the impugned order is liable to be set aside. Accordingly, the same is set aside. The matter is remanded to the second respondent for fresh consideration. The second respondent is directed to issue notice, afford opportunity of hearing to the petitioner and thereafter pass orders on merits and in accordance with law. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

9. In fine, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
NCC : Yes / No
CM



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To,
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3. The Tahsildar,
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N.MALA, J.

CM

Order made in
W.P.(MD)No.30819 of 2024
and WMP(MD).No.25899 of 2024

Dated:
21.01.2025