



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.09.2015
CORAM

THE HON'BLE Mr. JUSTICE R.SUDHAKAR
AND
THE HON'BLE Ms. JUSTICE V.M.VELUMANI

W.A.(MD)No.958 of 2015
&
M.P.(MD) No.2 of 2015

S.P.Rajendran .. Appellant/2nd Respondent

vs.

1.K.Sankaranarayanan

2.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

.. Respondents/Petition & 1st Respondent

Appeal filed under under Clause 15 of the Letters Patent, against the order dated 27.10.2014, made in W.P.(MD)No.17219 of 2014.

Prayer in WP(MD). 17219/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating with the notice issued by the 1st respondent in Na.Ka.NO. 1766/2014/A2 dated 22.09.2014 and quash the same as it is arbitrary and illegal.

For Appellant : Mr.S.Anwar Sameem

For Respondent No.1 : Mr.R.Suriyanarayanan

For Respondent No.2 : Mr.M.Alagathevan
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by R.SUDHAKAR, J.,)

The short ground on which, the order of the learned Single Judge is assailed is that the present appellant was already arrayed as second respondent in the writ petition, who had given a complaint to the District Collector, alleging that Patta was issued in favour of the writ petitioner/first respondent in the appeal and therefore, it should be cancelled. The District Collector, delegated the issue to the Revenue Divisional Officer, who in turn asked the Tahsildar to make an enquiry and submit a report. The Tahsildar issued proceedings in relation to the Enquiry and that was challenged before the learned Single Judge and was set aside on the ground of jurisdiction.



2. The present appellant contends that the finding of the learned Single Judge, is erroneous, inasmuch as the impugned proceedings under challenge issued by the Tahsildar, is only an enquiry notice and has nothing to do with the power of Tahsildar to cancel Patta. He was only delegated with the power of making an enquiry. If an opportunity had been given to the present appellant/second respondent, who has already been arrayed as party respondent, he would have explained the situation before the learned Single Judge, and consequently, the order came to be passed in his absence, which is evident from paragraph 2 of the learned Single Judge order. It reads as follows:

"2.To avoid an avoidable delay, notice to the 2nd respondent is dispensed with by this Court."

3. We find every justification in the grievance expressed by the appellant/second respondent that an opportunity ought to have been given to him to explain that notice issued by the Tahsildar, was within jurisdiction and he would also be able to explain that absolutely no justification to complain on the notice issued by the Tahsildar. In that scenario, the appellant/second respondent in the writ petition has not been heard and therefore, there is violation of principles of natural justice. Therefore, the order of the learned Single Judge, dated 27.10.2014, made in W.P.(MD) No.17219 of 2014, deserves to be set aside. Accordingly, it is set aside and remitted back to the learned Single Judge, for fresh consideration.

4.This writ appeal is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Tahsildar,
Uthamapalayam Taluk,
Theni District.

+1cc to Mr.T.Antony Arul Raj, Advocate SR.No.57649

W.A. (MD) No.958 of 2015
& M.P. (MD) No.2 of 2015

29.09.2015

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NS/GSV-PM/26.10.2015 : 2P/3C