

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

W.P.No.15134 of 2017

M.Shanthi

... Petitioner

Vs.

1. The District Collector,
Puducherry.

2. The Tahsildhar,
Taluk Office,
Oulgaret, Puducherry.

... Respondents

The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in relation to the impugned proceedings in No.4303/T00/LG/E/20161443 dated 10.05.2017, quash the same and direct the 2nd respondent to transfer the Patta in petitioner's name in respect of Plot Nos.6,7,8,9,13 14 and 15 in R.S.No.90/3 of Karuvadikuppam Revenue Village vide Document Nos.125/2016, 28434/2016 and 28436/2016 in the office of the Sub Registrar, Oulgaret, Pondicherry.

For Petitioner : Mr.I.Abrar Md Abdullah

For Respondents : Mr.J.Kumaran,
Government Advocate (Puducherry)

सत्यमेव जयते
O R D E R

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in relation to the impugned proceedings dated 10.05.2017 and to quash the same and to direct the 2nd respondent to transfer the Patta in respect of Plot Nos.6, 7, 8, 9, 13, 14 and 15 in R.S.No.90/3 of Karuvadikuppam Revenue Village.

2.The 2nd respondent passed the impugned order rejecting the petitioner's application for transfer of Patta.

3.Mr.I.Abrar Md Abdullah, learned counsel appearing for the petitioner submitted that though the petitioner has filed his reply before the 2nd respondent, the 2nd respondent had passed the impugned order dated 10.05.2017 without giving an opportunity of personal hearing to him. However, the learned

counsel relied upon the provisions of Section 16 (3) of The Puducherry Settlement Act, 1970.

4. On a reading of the said provision, it is clear that the officer specified under Sub-section (1) shall, after following such procedure as may be prescribed and after giving the person or person interested in the land to which the particular entry relates an opportunity of being heard, pass such orders as he deems fit, either rejecting or allowing the claim made in the application and in the event of the claim being allowed, the Register of Rights shall be modified accordingly.

5. On a reading of the impugned order passed by the 2nd respondent, it is clear that the petitioner has filed his objections. However, the impugned order has been passed without giving an opportunity, which is a mandatory provision under Section 16 (3) of the Act.

6. In these circumstances, the learned counsel appearing for the petitioner submitted that the impugned order passed by the 2nd respondent may be set aside and the matter may be remitted back to the 2nd respondent for fresh consideration, after giving an opportunity of hearing to the petitioner.

7. Mr. J. Kumaran, learned Government Advocate (Puducherry) appearing for the respondents submitted that the matter may be remitted back to the 2nd respondent for fresh consideration and the 2nd respondent may be directed to decide the matter afresh, after giving an opportunity of hearing to all the interested parties.

8. Since the petitioner was not given an opportunity of personal hearing as contemplated under the Act, it is a clear violation of principles of natural justice. The present Writ Petition is entertained and the impugned order dated 10.05.2017 is liable to be set aside on the said ground.

9. Accordingly, the impugned order dated 10.05.2017 is set aside and the matter is remitted back to the 2nd respondent for fresh consideration. The 2nd respondent is directed to decide the matter afresh, after giving an opportunity of hearing to the petitioner as well as to all the interested parties, in accordance with law, within a period of three months from the date of receipt of copy of this order.

10. With these observations, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar (CS IV)

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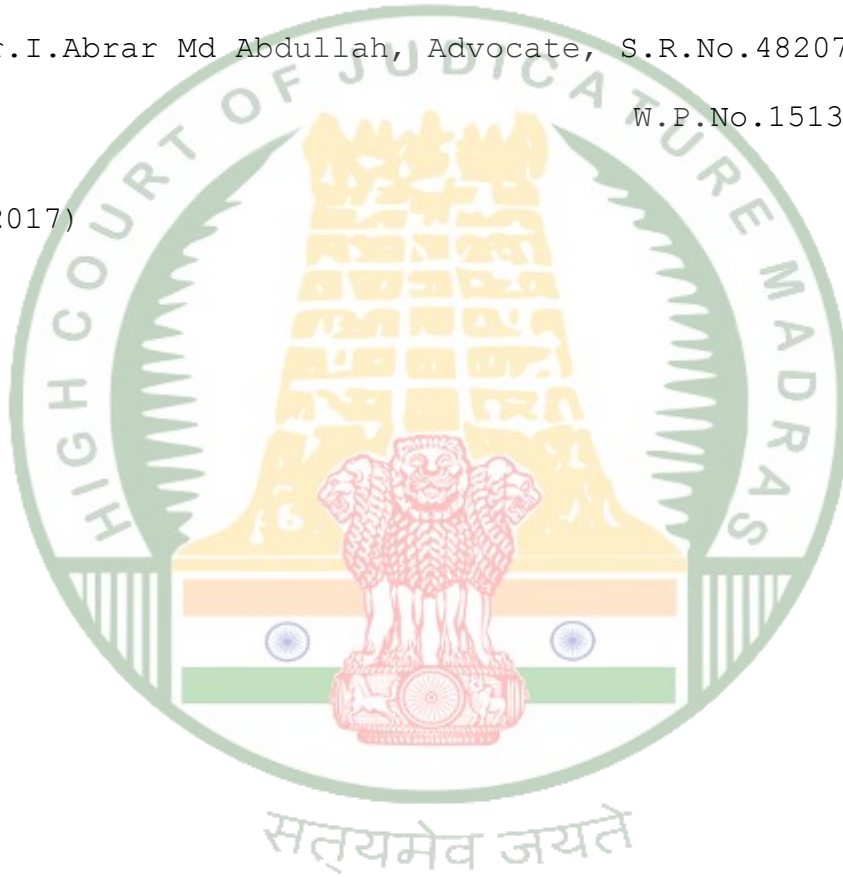
To

1. The District Collector,
Puducherry.
2. The Tahsildhar,
Taluk Office,
Oulgaret, Puducherry.

+1cc to Mr.I.Abrar Md Abdullah, Advocate, S.R.No.48207

W.P.No.15134 of 2017

CS IV
CA(17/07/2017)



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