

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.23284 of 2006

& M.P. No.1 of 2006

M.K.KM.Sethuraman Petitioner

Versus

- 1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Revenue,
Fort. St George, Chennai-9.
- 2.The Commissioner of Land Administration,
Chepauk, Madras-5.
- 3.The District Collector,
Pudukottai District.
- 4.The Tahsildar, Thirumayam,
Pudukottai District. ... Respondents

PRAYER:Writ petition filed under Article 226 of the Constitution of India praying for issuance of a certiorarified mandamus to call for the records on the file of the 4th respondent in ROC No.A1 1060-99 dated 12.05.2006 and quash the proceedings therein as illegal, incompetent and without jurisdiction and further direct the second respondent to assign the lands in S.Nos.651/2, 651/4, 651/5, 638/2 of Ponamaravathi West, Thirumayam Taluk, Pudukottai District in favour of the petitioner.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.S.Gunasekaran, AGP

ORDER

The petitioner has approached this Court seeking the following relief:

'To issue a certiorarified mandamus to call for the records on the file of the 4th respondent in ROC No.A1 1060-99 dated 12.05.2006 and quash the proceedings therein as illegal, incompetent and without jurisdiction and further direct the second respondent to assign the lands in S.Nos.651/2, 651/4, 651/5, 638/2 of Ponamaravathi West, Thirumayam Taluk, Pudukottai District in favour of the petitioner'.

2.The case of the petitioner is as follows:

According to the petitioner, the demand made by the respondents towards cess and sur-charge charges was the subject matter of litigation before this Court in WP.No.4038 of 1999. The writ petition filed by the petitioner was dismissed, against which, W.A.No.519 of 1999 was filed before the Division Bench of this Court and this Court had allowed the writ appeal by order dated 04.02.2002. Paragraph No.3 of the order dated 04.02.2002, which is extracted below:

'The writ appeal is allowed. The impugned order is set aside. The assessing authority shall issue notice to the appellant stating the particulars with regard to the liability of the demand of cess by the appellant, and on the receipt of such notice, it is for the appellant either to contest or settle, and if there is a contest, then, the opportunity to the appellant and then decide the matter by determining the payment of the amount'.

3. In spite of the direction given by the Division Bench of this Court, without giving any opportunity to the petitioner, the fourth respondent had passed an order demanding cess and sur-charge charges to the tune of Rs.16,19,510/-. The demand was made vide proceedings dated 12.05.2006 by the fourth respondent.

4. According to the learned counsel for the petitioner, the aforesaid impugned order passed by the fourth respondent is in violation of the order passed by the Division Bench of this Court in W.A.No.519 of 1999 dated 04.02.2002. The learned counsel would also submit that the impugned order passed is in violation of the principles of natural justice that no details

were furnished to the petitioner as to the basis of the calculation. He would draw the attention of this Court to paragraph No.6 of the counter affidavit filed on behalf of the fourth respondent, in which, it is stated that the details of the calculation was sent to the petitioner on 21.06.2006 i.e., much after the impugned order was passed. Therefore, the learned counsel would submit that the petitioner would be given an opportunity to present his case and the fourth respondent may be directed to furnish the details as to the basis of the calculation of demand towards cess and sur-charge charges.

5. It is brought to the notice of this Court by the learned counsel for the respondent that Tirumaiyam, Pudukottai District has been bifurcated and the present competent authority is the Tahsildar, Ponnamaravathy.

6. In view of the above submission, this Court directs the Tahsildar, Ponnamaravathy, Pudukottai District to provide an opportunity to the petitioner by giving him notice and personal hearing and furnish him the details as to the basis of any demand towards cess and sur-charge charges and thereafter, pass orders on merits and in accordance with law. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of, with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)
//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

- 1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Revenue,
Fort. St George, Chennai-9.
- 2.The Commissioner of Land Administration,
Chepauk, Madras-5.

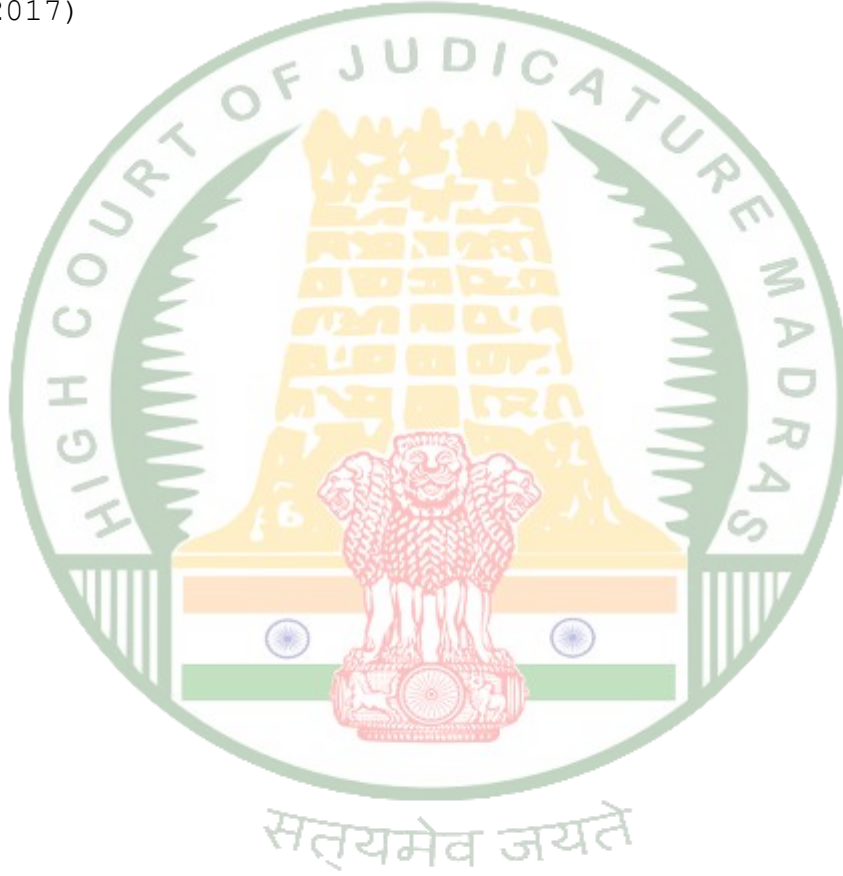
3.The District Collector,
Pudukottai District.

4.The Tahsildar, Thirumayam,
Pudukottai District.

+1cc to Mr.V.RAGHAVACHARI, Advocate, S.R.No.82138
+1cc to the Addl. Government Pleader, S.R.No. 82471

W.P.No.23284 of 2006

MR (CO)
TR(18/12/2017)



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