



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2017

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**THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR**

**W.A (MD)No.1187 of 2017
and
Cont.P(MD) No.1140 of 2017**

W.A (MD)No.1187 of 2017

- 1.The District Collector,
District Collector Office,
Sivagangai, Sivagangai District.
2. The Revenue Divisional Officer,
R.D.O.Office,
Devakottai, Sivagangai District.
3. The Special Tahsildar,
Urban Land Tax Scheme,
Special Tahsildar Office,
Karaikudi, Sivagangai District. ...Appellants/Respondents

Vs.

Rajeswaran ... Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying this Court to set aside the order dated 19.04.2017 made in W.P.(MD) No.6823 of 2017 and allow the Writ Appeal.

Prayer in WP(MD). 6823/ 2017 :

Petition presented under Article 226 of the Constitution of India, to issue a writ of mandamus directing the 3rd respondent herein to implement the proceedings made in Mu.Mu.A1-2717- 2015 dated on 22.05.2015 on the file of 2nd respondent herein in the light of petitioner's representation dated 21.3.2017 within a stipulated period as may be fixed by this court.

For Petitioners	: Mr.VR.Shanmuganathan
	Special Government Pleader
For Respondent	: Mr.R.Sundar



Cont.P(MD) No.1140 of 2017

WEB COPY

Rajeswaran

...Petitioner/petitioner

Vs.

Mrs.T.Sumathi,
The Special Tahsildar,
Urban Land Tax Scheme,
Special Tahsildar Office,
Karaikudi,
Sivaganga District.

...Respondent /Contemnor

Prayer: Petition filed under Section 11 of Contempt of Court Act, praying this Court to punish the respondent/contemnor for his wilful disobedience of the order made in W.P.(MD) No.6823 of 2017 on the file of this Court dated 19.04.2017.

For Petitioner : Mr.R.Sundar

For Respondent : Mr.VR.Shanmuganathan
Special Government Pleader

COMMON JUDGMENT

[Judgment of the Court was made by **M.M.SUNDRESH, J.**]

This writ appeal is directed against the order passed by the learned Single Judge, dated 19.04.2017 by which, the writ petition was disposed of by directing the third respondent to implement the order of the second appellant.

2.The learned Special Government pleader appearing for the appellants would submit that the order based upon which, the learned single Judge allowed the writ petition was an unilateral one. Without taking into consideration of the earlier proceeding by which, the patta was cancelled, the property in question is classified as 'Oorani'. Therefore, there are two embargo both statutorily and the land being classified as water body, which is prohibited by the order of the Full Bench in the case of **T.K.Shanmugam, Secretary, C.P.I.(M) North Chennai District Committee Vs. State of Tamil Nadu and others**, reported in **2015(6) CTC 369**.

3.The learned counsel appearing for the respondent/writ petitioner would submit that the Revenue Divisional Officer passed the order, based upon the records, the appellants were given sufficient opportunity and thereafter, only the impugned order was passed.



4.A perusal of the order passed by the second appellant based upon which, a direction was issued would show that the said authority has not take into consideration of the earlier proceeding. The third respondent, who passed the order on an earlier occasion, ought to have called for a report from the Tahsildar concerned and based upon the same, he should have passed an order. Admittedly there is no reference to the cancellation of the patta made. The third respondent, who passed an order, merely relied upon the document produced by the writ petitioner.

5.In such view of the matter, we are of the view that the order passed by the learned Single Judge cannot be sustained in law. Accordingly, we set aside the order passed by the learned Single Judge as well as the order passed by the second appellant, dated 22.05.2015, being unilateral in nature.

6.Therefore, the matter stands remitted back to the second appellant for fresh consideration. The second appellant shall pass a fresh order, after affording an opportunity to the respondent/writ petitioner and after getting a report from the Special Tahsildar, Karikudi or any other Officer including Jurisdictional Tahsildar. The second appellant is directed to verify the records including the statement records as well as the records pertinent to the cancellation of patta and thereafter, pass an order. The entire exercise shall be completed by the second appellant, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

7.In view of the order passed in W.A(MD).No.1187 of 2017, the contempt petition is closed.

Sd/-
Assistant Registrar(P&A)

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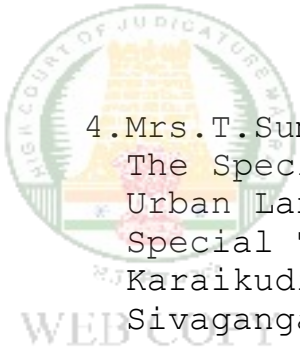
Sub Assistant Registrar

To

1.The District Collector,
District Collector Office,
Sivagangai, Sivagangai District.

2.The Revenue Divisional Officer,
R.D.O.Office,
Devakottai, Sivagangai District.

3.The Special Tahsildar,
Special Tahsildar Office,
Karaikudi, Sivagangai District.



4. Mrs. T. Sumathi,
The Special Tahsildar,
Urban Land Tax Scheme,
Special Tahsildar Office,
Karaikudi,
Sivaganga District.

+1 cc to Mr. R. Sundar, Advocate, SR.No. 77040

+1 cc to The Special Government Pleader in SR.No. 77314

Ns/cp

AE/MR KKR/SAR1/28.09.2017/4P/7C

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and
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