

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 10.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**Writ Appeal (MD) No.513 of 2017**

and

C.M.P (MD) No.4397 of 2017

1. The Commissioner of Land Administration,
Chepauk, Chennai 600 005.
2. The District Collector,
Madurai District, Madurai 625 020.
3. The Tahsildar,
Madurai South Taluk,
Madurai 625 020.
4. The District Revenue Officer,
Madurai District, Madurai 625 020.
5. The Assistant Commissioner/Executive Officer,
Arulmighu Subramaniasamy Thirukovil,
Tiruparankundram, Madurai 625 020.

... Appellants/Respondents 1 to 5

Vs.

- 1.P.Karmegam
- 2.P.Senthilkumar
- 3.N.G.Navakodi Pon Sekar

... Respondents/Respondents 5 & 7

Appeal filed under Clause 15 of the Letters Patent against the order dated 14.10.2014 made in W.P.(MD)No.4222 of 2012 on the file of this Court.

Prayer in WP(MD). 4222/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in (Ref.C.C.No.46/2006).No.K4/7401/2012, dated 21.03.2012 passed by the 1st respondent, and quash the same as illegal.

For Appellants

: Mr.V.R.Shanmuganathan,
Special Government Pleader.<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.C.M.Arumugam

**JUDGMENT**

(Judgment of the Court was delivered by **M.M. SUNDRESH, J**)

What is sought to be predicted before the learned single Judge was only a show cause notice. The learned single Judge was pleased to set aside the said order on the mistaken premise that the entire RSO No.31-8(A) has been deleted by way of G.O.Ms.No.409, Revenue Department, dated 02.07.2008. Unfortunately, that is not a factual position. To appreciate this position, it is appropriate to refer the original provision as it stood prior to the deletion which is as under:-

"8.(A).Against the orders of the Tahsildar or Deputy Tahsildar, the affected person may file an appeal to the Divisional Officer and a revision to the District Revenue Officer against the orders of the Divisional Officer. The appeal/revision should be filed within 30 days from the date of receipt of the order appealed against. A further revision to the Commissioner of Land Administration can be made within 30 days from the date of receipt of the order and the orders of the Commissioner of Land Administration are final. The Commissioner of Land Administration may, however, exercising the general powers of the suo-motu revision, call for the records of the District, Divisional and taluk when representations are made to him about the procedural, material and legal irregularities in the order passed by the subordinates, examine the case and decide."

2.This provision contains that two parts. The first part deals with a revision against an appeal. This can be done by any one of the aggrieved parties. The second part deals with suo motu power of the Commissioner of Land Administration. The second part is kept in tagged. In the aforesaid Government Order, as could be seen from the following paragraphs:-

"3.The Special Commissioner and Commissioner of Land Administration has suggested draft amendment to the existing R.S.O. para 31.8(A) by way of deletion of the following lines:-

"A further revision to the Commissioner of Land Administration can be made within 30 days from the date of receipt of the order and the orders of the Commissioner of Land Administration are final".

4.In the above circumstances, the Government examined the proposal of the Special Commissioner and Commissioner of Land Administration in detail, and decided to accept Amendment to R.S.O.31.8(A) as mentioned in para 3 above. Accordingly, the Government direct the Special Commissioner and Commissioner of Land



Administration that all ongoing enquires may be carried on to the logical conclusion and orders issued. The Special Commissioner and Commissioner of Land Administration should ensure that in all cases where enquires are not commenced, they may be returned back, with direction to approach-Competent Court of Law."

3. In such view of the matter, the learned single Judge has committed an error in misconstruing the deletion made by way of amendment. What has been enunciated in the impugned order is only an exercise of suo motu power. Therefore, we are constrained to set aside the order of the learned single Judge. The first respondent/writ petitioner is given further period of four weeks time to give his response. On receipt of such response, the appellants shall pass appropriate orders, on merits and in accordance with law, within a period of eight weeks thereafter.

4. The writ appeal is accordingly allowed. No costs. Consequently, W.M.P(MD)No.4397 of 2017 is closed.

Sd/-

Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Land Administration,
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 2. The District Collector,
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Arulmighu Subramaniasamy Thirukovil,
Tiruparankundram, Madurai 625 020.
- +1cc to M/S. C.M.ARUMUGAM, Advocate, SR.No.72232.
+1cc to Special Government Pleader, SR.No.72351.

Writ Appeal(MD)No.513 of 2017
and

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