



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2017

CORAM:

THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.A.(MD).No.738 of 2017

and

C.M.P(MD)Nos.5516 and 5517 of 2017

K.Murugesan

... Appellant/2nd Respondent

Vs.

1.The Special Revenue Deputy Collector,
The Special Revenue Court,
Madurai.

... 1st Respondent/ 1st Respondent

2.Kabilaparanan

... 2nd Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 23.02.2017 made in W.P.(MD).No.3113 of 2017 on the file of this Court.

Prayer in WP(MD). 3113/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to dispose the appeal by the 2nd respondent in Mae.Mu.No. 12/2016 dated 06.06.16 within the time framing by this Honble Court.

For Appellant : Mr.P.Gunasekaran

For Respondents : Mr.V.Muruganantham,
Additional Government Pleader for R.1

* * * *

JUDGMENT

(Judgment of the Court was delivered by
T.S.SIVAGNANAM,J.)

The appellant before us was the second respondent in the writ petition in W.P(MD)No.3113 of 2017. The said writ petition was filed by the second respondent herein praying for issuance of a writ of Mandamus to direct the first respondent to dispose of the appeal filed by the appellant within a time frame.

2. The learned Single Bench disposed of the writ petition at the admission stage as it was not inclined to grant any positive direction and directed the first respondent to dispose of the appeal and in accordance with law after hearing both the parties within a time frame.



3. The appellant's grievance is that on account of the direction issued in the writ petition, the first respondent is attempting to dispose of the appeal without affording reasonable opportunity to the appellant and without considering the request made by the appellant to have spot inspection of the property, for which, he filed an interlocutory application in the appeal petition.

4. On a reading of the impugned order, we find that the writ Court had directed the appeal to be disposed of on merits and in accordance with law and after hearing both the parties. It goes without saying that full and effective opportunity should be granted to both the parties and they should be permitted to place all the materials before the first respondent to substantiate their respective case. The opportunity to be granted to the parties should not be illusory, but should be an effective opportunity. So that, the principles of natural justice are fully complied with.

5. We are of the view that the impugned order does not call for any interference as the requirement of the appellant to full-fledged hearing and the requirement of spot inspection of the premises in question, is implicit in the impugned order.

6. Thus, we dispose of this appeal by clarifying the order passed by the learned Single Bench, by directing the first respondent to afford full and effective opportunity to both the parties and also considering the request made by the petitioner for spot inspection of the property, proceed to pass orders on merits and in accordance with law. The said exercise be complied with within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/-

Assistant Registrar(writs)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1.The Special Revenue Deputy Collector,
The Special Revenue Court,Madurai.

+1cc to M/S.P.GUNASEKARAN, Advocate SR.No.61732

+1cc to Special Government Pleader, SR.No. 61869

rsb

MAS/GT/SAR2:06.07.2017:2P-4C

JUDGMENT MADE IN
W.A. (MD) .No.738 of 2017
and

C.M.P (MD) Nos.5516 and 5517 of 2017
22.06.2017