



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD) No.14788 of 2017 and
W.M.P.(MD) No.11626 of 2017

N.Thaha Khan

... Petitioner

-vs-

1. Shajakhan

2. The Tahsildar-cum-Second Class Executive Magistrate,
Taluk Office, Keelakarai,
Ramanathapuram District.

... Respondents

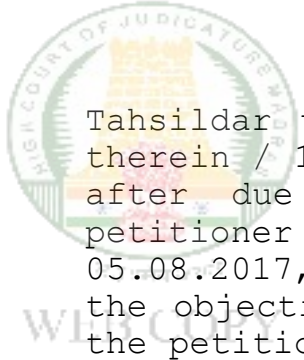
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent dated 03.08.2017 in his order No.Ka.A.3/2424/2017 and quash the same and to direct the 2nd respondent not to measure the land comprised in S.No.73/3 New Survey No.224/2 and 224/20 measuring 3.04 hec. till the disposal of writ petition No.16446 of 2014 and the W.A.S.R.No.15725 of 2017.

For Petitioner
For R2: Mr.M.Md.Ibrahim Ali
: Mr.C.Selvaraj
Spl. Govt. PleaderO R D E R

This writ petition has been filed, seeking to quash the order of the 2nd respondent dated 03.08.2017 passed in Na.Ka.A.3/2424/2017, by which the 2nd respondent directed the Deputy Tahsildar and the Village Administrative Officer to measure the land with further direction to the Police to provide sufficient police protection to them.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for R2. Considering the fact that the opportunity of hearing to first respondent can be granted by the second respondent at the time of enquiry, notice to the first respondent is dispensed with. By consent, the writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that the 1st respondent herein had filed a writ petition in W.P.(MD) No.2949 of 2017, in which, this Court was pleased to pass an order on 21.02.2017, directing the



Tahsildar therein to consider the representation of the petitioner therein / 1st respondent herein and pass appropriate orders on merits after due notice to both the parties. The grievance of the petitioner is that though the petitioner has filed his objection on 05.08.2017, the impugned order has been passed without considering the objection and without even giving an opportunity of hearing to the petitioner. Aggrieved by the same, the petitioner is before this Court.

4. It is seen that the second respondent has misconstrued the direction issued by this Court and hurriedly, passed the impugned order, directing his subordinates to survey the land without causing any enquiry. Therefore, the stand taken by the 2nd respondent in the impugned order dated 03.08.2017 cannot be countenanced and the same is liable to be set aside.

5. In the result, the impugned order dated 03.08.2017 is set aside and the matter is remanded back to the 2nd respondent for fresh consideration, but, of course, in consonance with the direction issued by this Court on 21.02.2017 in W.P.(MD) No.2949 of 2017. Accordingly, a date is fixed as 04.09.2017 for the second respondent to conduct enquiry and the second respondent shall issue prior notice to both the petitioner and all other interested parties to appear for enquiry on that date and thereafter, the second respondent shall take a decision with regard to measurement of the property in question after hearing both the parties in compliance with the earlier order of this Court dated 21.02.2017. It is made clear that in the event of non receipt of notice by any of the parties from the second respondent, without waiting for the same, they can appear before the 2nd respondent on 04.09.2017 at 10:00am without fail.

6. With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Tahsildar-cum-Second Class Executive Magistrate,
Taluk Office, Keelakarai,
Ramanathapuram District.



W.P (MD) No.14788 of 2017
09.08.2017

AR

JM/MMS/SAR 3/10.08.2017/3P/4C