



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.10.2017
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

W.P.(MD)No.17469 of 2017
and
W.M.P.(MD)No.13999 of 2017

Subaitha Beevi

... Petitioner

Vs.

1. The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.
2. The Sub - Collector cum
The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.
3. The Tahsildar,
Mudhukulathur,
Ramanathapuram District.

4.Sikkanthar Batcha, Represented by his father, H.Abdul Kathar

5.Sakkarai Ammal @ Sakkarai Pathu Beevi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the 1st Respondent in his proceedings in Pa.Mu.(Pi.5)/13795/2016 dated 07.03.2017 and its consequential proceedings and to quash the same.

For Petitioner : Mr.M.S.Jeyakarthick
For Respondents : Mr.T.S.Mohamed Mohideen,
Additional Government Pleader
for R.1 to R.3

ORDER

This writ petition has been filed by the petitioner, seeking a Writ of Certiorari, to quash the impugned order of the first respondent in Pa.Mu.(Pi.5)/13795/2016 dated 07.03.2017.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The facts of the case, in nutshell, is as follows:



2.1. According to the petitioner, the lands in Survey Nos.279/10 & 279/11 in Keela Mudhukulathur, Mudhukulathur, Ramanathapuram District, belong to one Naina Mohammed and after his demise, the petitioner as well as the fifth respondent herein, being the legal heirs, were in enjoyment and possession of the said property. The fourth respondent, obtained patta in his favour, with regard to the properties in question and the said dispute was placed before the second respondent, who passed an order dated 25.02.2016, in favour of the petitioner and the fifth respondent. Aggrieved by the same, the fourth respondent preferred a revision before the first respondent, who in turn passed an order dated 07.03.2017, in favour of the fourth respondent, which is impugned in this writ petition.

2.2. It is the case of the petitioner that she appeared before the first respondent in the revision proceedings, on the specified dates of hearing, whereas, the impugned order came to be passed, as if there was no representation on behalf of the petitioner as well as the fifth respondent. The learned Counsel for the petitioner contended that such observation for the first respondent is baseless and in support of the said contention, the learned Counsel produced a copy of the information provided by the authorities dated 06.07.2017, under the RTI Act, wherein, the appearance of the petitioner herein/second respondent in the revision, was specifically recorded.

3. Heard the learned Counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 to 3. Notice to the respondents 4 & 5 is dispensed with, as opportunity of hearing will be provided to them by the authorities concerned before taking a final decision on the matter.

4. It is seen that in the impugned order dated 07.03.2017, no appearance was marked for the petitioner herein/second respondent in the revision and after recording the non-appearance, the District Revenue Officer/first respondent herein has passed the impugned order. Whereas, the communication issued by the authorities dated 06.07.2017, under the RTI Act, produced by the petitioner, clearly reveals the presence of the petitioner before the authorities in the revision proceedings, which is not refuted by the learned Additional Government Pleader.

5. A perusal of the impugned order would amply prove the fact that despite the petitioner/second respondent casting appearance before the first respondent in the revision, the impugned order came to be passed in a hasty manner, which itself shows the predetermined mind of the first respondent in passing such an order and hence, the same would not stand in the eye of law and is liable to be set aside.



6. Accordingly, the impugned order of the first respondent dated 07.03.2017 is set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to pass fresh orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as the fourth and fifth respondents herein and all other interested parties, if any, within a period of six weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.
2. The Sub - Collector cum
The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.
3. The Tahsildar,
Mudhukulathur,
Ramanathapuram District.

+ 1 CC TO MR.M.S.Jeyakarthick, ADVOCATE IN SR No.81704

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.81651

gk

MK/SV MMS/SAR-1/11.10.2017/3P/6C

W.P. (MD) No.17469 of 2017
04.10.2017