



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.[MD].Nos.17848 and 17849 of 2016
and
W.M.P.(MD)Nos. 12875,12876 and 12877 of 2016

Veera Alagammal ... Petitioner in both Writ Petitions

Vs.

1.The District Collector of
Virudhunagar District,
Collectorate Complex,
Virudhunagar.

2.The Special Deputy Collector(சு.பா.தி)
cum Sivakasi Assistant Collector (பா),
Sivakasi.

3.The Revenue Divisional Officer,
Sivakasi.

4.The Special Deputy Tahsildar,
Office of the Special Deputy Tahsildar,
Virudhunagar.

5.The Tahsildar,
Taluk Office, Srivilliputtur.

6.P.K.Karuppan

7.Alagarsamy ... Respondents in both Writ Petitions

PRAYER in W.P.(MD)No.17848 of 2016: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the second respondent dated 27.08.2016 made in her proceedings Na.Ka.AA.1/2628/2016 and quash the same.

PRAYER in W.P.(MD)No.17849 of 2016: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 to 5 herein to restore that part of the petitioner's property in Survey Nos.1210 and 1211/3A, Maharajapuram, Thaniparai Village as on 07.09.2016 which



was allowed to use as a pathway as per the proceedings of the fifth respondent made in her proceedings Na. Ka. AA1/7134/2016 dated 29.08.2016 which was affixed on the outer door of the petitioner's premises on 01.09.2016 at about 07.00 p.m.

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For Petitioner : Mr.V.Sitharanjandas
in both Writ Petitions
For R1to R5 : Mr.M.Govindan
Special Government Pleader
in both Writ Petitions
For R6 and R7 : Mr.M.Ajmal Khan, Senior counsel
for M/s. Ajmal Associates.
in both Writ Petitions

C O M M O N O R D E R

[Order of the Court was delivered by **G.R.SWAMINATHAN,J.**]

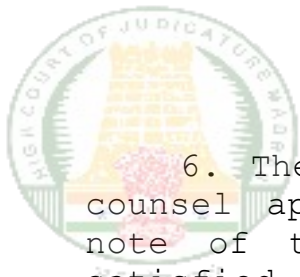
The Writ Petitioners in both the Writ Petitions are one and the same. In W.P.(MD)No.17848 of 2016, the order dated 27.08.2016 passed by the Special Deputy Collector cum Assistant Collector, Sivagangai is under challenge. The prayer in W.P.(MD)No.17848 of 2016 is for restoration of disputed property, which was allowed to be used as pathway by order dated 27.08.2016.

2. The case of the Writ petitioner is that the property in question is the patta property and that if the local Villagers have any claim over the same, they will have to move the Civil Court for relief. It is not open to the Revenue Authority to pass the impugned order.

3.Per contra, the learned senior counsel appearing for the private respondents submitted that the local agriculturists have been using the subject property as pathway since time immemorial. Since, the pathway that was customarily used by them, was blocked by the Writ Petitioner, they had to move the authority for relief.

4.When the matter was taken up for hearing, the learned senior counsel appearing for the private respondents filed copies of 'A' Register indicating that the disputed property was shown as pathway as on ground. It is admitted that it is not reflected in the order passed by the second respondent herein.

5.Therefore, the order dated 27.08.2016 passed by the second respondent in W.P.(MD)No.17848 of 2016 is set aside. The matter is remitted to the file of the second respondent. The second respondent shall verify if there is any revenue record prior to 27.08.2016 which would show that the pathway has been existing on ground across the patta land of the Writ Petitioner.



6. The 'A' register extract relied on by the learned senior counsel appearing for the private respondent may also be taken note of the second respondent. If the second respondent is satisfied, that the customarily pathway on ground has been existing, then she shall refer to the relevant revenue record and pass an order accordingly.

7. The matter is remanded only for the limited purpose of verifying anterior record, if any. The order impugned in W.P.(MD) No.17848 of 2016 is therefore quashed and the matter is remitted to the file of the second respondent with liberty to pass a fresh order in accordance with law based on anterior revenue records.

8. The second respondent shall pass an order within a period of two months from the date of receipt of a copy of this order. W.P. (MD) No.17848 of 2016 is allowed as indicated above. In view of the order made in W.P.(MD) No.17848 of 2016, no orders are necessary in W.P.(MD) No.17848 of 2016. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector of Virudhunagar District,
Collectorate Complex, Virudhunagar.
2. The Special Deputy Collector (ச.பா.தி)
cum Sivakasi Assistant Collector (பா), Sivakasi.
3. The Revenue Divisional Officer, Sivakasi.
4. The Special Deputy Tahsildar,
Office of the Special Deputy Tahsildar, Virudhunagar.
5. The Tahsildar, Taluk Office, Srivilliputtur.

+2cc to M/S.V.SITHARANJANDAS, Advocate SR.No.78564&78563

+1cc to M/S.AJMAL ASSOCIATES, Advocate SR.No.78735

+1cc to Special Government Pleader, SR.No. 79040

gsp/mrn

MAS/MR-KKR/SAR2:08.11.2017:3P-10C

W.P.[MD].Nos.17848 and 17849 of 2016
and