



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.9353 of 2017

and

W.M.P(MD) Nos.7127, 7128 & 14001 of 2017

M.Thavamani

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai Collectorate,
Madurai - 625 020.

2.The District Revenue Officer,
Madurai District,
Madurai Collectorate,
Madurai - 625 020.

3.The Revenue Divisional Officer
Melur @ Othakadai,
Madurai.

4.The Tahsildar,
Melur,
Melur Taluk,
Madurai District.

5.Rajeswari

6.M.Balamurugan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impuged order of the 3rd respondent the Revenue Divisional Officer, Melur at Othakadai in Na.Ka.No.2191/2017/C, dated 21.04.2017 is illegal, void and ultra virus and to quash the same.

For Petitioner : Mr.N.Murugesan

For R.1 to R.4 : Mr.J.Gunaseelan Muthiah,
Government Advocate

For R.5 : Mr.R.Joseph Thankaraj

For R.6 : Mr.C.Godwin

**ORDER**

This writ petition has been filed, seeking to quash the impugned order in Na.Ka.No.2191/2017/C, dated 21.04.2017, passed by the 3rd respondent, by which, patta was transferred in the name of the six respondent.

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2. The case of the petitioner is that he had purchased the property in question from the fifth respondent on 18.11.1994. Whereas, the sixth respondent claimed that he had purchased the said property on 26.12.2013. Hence the petitioner has submitted a petition on 07.10.2015 not to transfer the patta in respect of the property and also gave a complaint against the sixth respondent. Suppressing the same and without impleading the petitioner as a party, the sixth respondent has filed a writ petition in WP(MD) No.765 of 2017, seeking for grant of separate patta by considering his representation dated 06.09.2016, upon which, this Court by order dated 15.02.2017, directed the fourth respondent to consider the representation of the petitioner therein. Pursuant to the same, on 22.03.2017 the fourth respondent passed an order, rejecting his claim. Thereafter, the sixth respondent had given an application on 18.04.2017 before the Revenue Divisional Officer / 3rd respondent and the third respondent without issuing any notice and giving opportunity to the petitioner passed the impugned order in favour of the sixth respondent and hence, the petitioner is before this Court with the above prayer.

3. The learned counsel for the petitioner would submit that the property in question belongs to the petitioner and when there is a rival claim over a property, it is the bounden duty of the authorities to take a decision, after hearing all the necessary parties, whereas, the present impugned order came to be passed without any notice to the petitioner.

4. Heard the learned counsel appearing on either side.

5. A perusal of the affidavit filed in support of the petition would reveal the fact that without hearing the petitioner, the third respondent has passed the present impugned order, which is totally against the direction issued by this Court on 15.02.2017 in W.P(MD) No.765 of 2017. It shows a total non application of mind on the part of the authorities and the present impugned order would not stand in the eye of law. Therefore, this Court is of the view that the impugned order is liable to be set aside on that particular ground alone.

6. Accordingly, this petition is allowed. The impugned order dated 21.04.2017 is set aside and the matter is remitted to the respondents for fresh consideration. The District Revenue Officer / the second respondent is hereby directed to pass appropriate order on this issue, in line with the order of this Court dated 15.02.2017, on its own merits and in accordance with law, upon notice to the petitioner as well as other necessary parties, if any.



The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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/True Copy/

Sd/-

Assistant Registrar

Sub Assistant Registrar

To:

- 1.The District Collector,
Madurai District,
Madurai Collectorate,
Madurai - 625 020.
- 2.The District Revenue Officer,
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Madurai Collectorate,
Madurai - 625 020.
- 3.The Revenue Divisional Officer
Melur @ Othakadai,
Madurai.
- 4.The Tahsildar,
Melur, Melur Taluk,
Madurai District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 83761

+1cc to Mr.C.GODWIN Advocate in SR. No. 83748

+1cc to M/s.N.MURUGESAN Advocate in SR. No. 83881

RM

JS/KK/SAR.4/31.10.2017/3P-8C

W.P(MD) No.9353 of 2017

25.10.2017