



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.21793 of 2016

and

W.M.P (MD) Nos.15577 & 15578 of 2016

G.Lazar

... Petitioner

Vs.

- 1.The District Collector
Tirunelveli District, Tirunelveli
- 2.The Sub Collector cum RDO,
Cheranmahadevi, Tirunelveli District.
- 3.The Tahsiildar
Radhapuram Taluk,
Radhapuram, Tirunelveli District.
- 4.The Assistant Engineer
P.W.D., W.R.O., Palaiyar Sub Division
Vadakankulam - 627 116,
Radhapuram Taluk,
Tirunelveli District.
- 5.S.Ramasamy Nadar

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus to call for the records of the second respondent's proceedings in A2.6380-15 dated 17.12.2015 and quash the same as devoid of merits and forbearing the respondents from taking coercive action against the petitioner and his agricultural properties to an extend of 15.84 acres under sale deed and Patta No.3118 of Perungudi Part-2 Village, Radhapuram Taluk, Tirunelveli District, without due process of law.

For Petitioner : Mr.Ananth C.Rajesh
For Respondents : Mr.J.Gunaseeelan Muthiah, - for R1 to R4
Government Advocate
: Mr.S.R.Anbarasu - for R5

**ORDER**

The writ petition has been filed seeking to quash the impugned proceedings dated 17.12.2015 passed by the second respondent and to forbear the respondents from taking any coercive action against the petitioner and his agricultural properties to an extent of 15.84 acres under sale deed and Patta No.3118 of Perungudi Part-2 Village, Radhapuram Taluk, Tirunelveli District, without due process of law.

2. According to the petitioner, he is an agriculturist, cultivating paddy and he depends upon the water from the Punjai Kuttykulam for irrigation purposes. It is his grievance that the revenue authorities, without any notice or opportunity, whatsoever, damaged his property for creating a new channel in his patta land. In the meanwhile, WP(MD) No.20593 of 2014 came to be filed by the fifth respondent, wherein, this Court by order dated 09.06.2015, directed the respondents to consider and pass appropriate orders on the representation. Subsequently, the impugned order dated 17.12.2015 came to be passed to restore the Odai (kal) which is in Survey Nos.2451, 2452 and 2453, which, according to the petitioner includes his patta land. The specific contention of the petitioner is that the second respondent without hearing him, has unilaterally passed the impugned order and hence, the petitioner is before this Court with the aforesaid prayer.

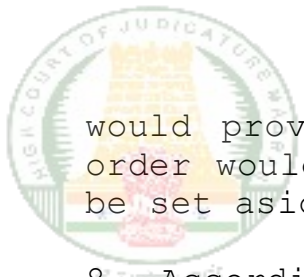
3. The learned counsel for the petitioner would submit that the impugned order has been passed without giving an opportunity of hearing to the petitioner and thereby, there is a violation of principles of natural justice.

4. Per contra, the learned Counsel appearing for the fifth respondent submitted that pursuant to the order of this Court in W.P(MD)No.20593 of 2014 dated 09.06.2015, the authorities, after following due process of law, had passed the order dated 17.12.2015, in order to ensure free passage of water, which is impugned in the present petition.

5. In the earlier round of litigation, this Court, in order to ascertain the actual scenario, by order dated 01.11.2017, has appointed an Advocate Commissioner to inspect the place in dispute, who, in turn, has filed his detailed report dated 14.11.2017.

6. Heard both sides and perused the documents placed on record.

7. Though the learned Counsel for the petitioner has raised several grounds, the main point urged by him is that the impugned order came to be passed, without providing him an opportunity of hearing, which is nothing but a violation of principles of natural justice. A perusal of the impugned order



would prove the same and under such circumstances, the impugned order would not stand in the eye of law and the same is liable to be set aside, on that ground alone.

8. Accordingly, this Writ Petition is allowed and the impugned order dated 17.12.2015 is set aside and the matter is remitted back to the second respondent for fresh consideration. The respective parties, viz., the petitioner and the fifth respondent, are hereby directed to appear before the second respondent on 20.12.2017 at about 10.00 a.m. along with all supporting documents and on such appearance the second respondent shall pass appropriate orders on merits and in line with the Section 3 of the Tamil Nadu Irrigation Works (Construction Field Bothies Act 1959), after affording due opportunity of hearing to all the other interested parties, if any, within a period of four weeks, thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector
Tirunelveli District, Tirunelveli
- 2.The Sub Collector cum RDO,
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Vadakankulam - 627 116,
Radhapuram Taluk,
Tirunelveli District.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.92478

+1CC TO M/S.ANANTH C.RAJESH, ADVOCATE, SR NO.92313

W.P. (MD) No.21793 of 2016

12.12.2017

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