

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 531 of 2016  
and W.M.P.Nos.368 & 369 of 2016

V.P.Sethubalasubramaniam

.. Petitioner

vs

1. The Tahsildar,  
O/o.Taluk Office, Kangayam,  
Tiruppur District.

2. Kishorekumar

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent in his proceedings O.Mu/RDR.634/Mi.S1, dated 18.06.2015 and quash the same and consequently direct the first respondent to make sub division of the land by deleting the name of the second respondent and the Coimbatore Dioceses Society from Patta No.101 in so far relates to R.S.Nos.432/2 and 432/3 to the extent of 0.30 acres.

For Petitioner : Mr. C.Prakasam

For Respondents : Mr. R.S.Selvam for R1

Mr.K.V.Sanjeev Kumar for

M/s. Royan Law Associates for R2

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O R D E R

The impugned order passed by the first respondent in proceedings O.Mu/RDR.634/Ni.S1, dated 18.06.2015 stating that the request of the writ petitioner for sub dividing the property cannot be done, on account of the fact that the respondent has raised an objection is under challenge.

2. The learned counsel for the petitioner states that the second respondent raised an objection in respect of entire land.

The petitioner approached the Civil Court of Law by filing a suit in O.S.No.79 of 2006 and Civil Court passed a decree in favour of the writ petitioner. The Civil Court has declared that the second respondent is the owner of the property to the extent of one acre and the balance area belongs to the writ petitioner. As against the said Judgment and Decree passed in the civil suit, a first appeal was filed in A.S.No.23 of 2010 and when the Civil Court declared the rights of the parties concerned then the Revenue Officials are bound to follow the same and accordingly, grant patta and effect alterations or modifications in the revenue records. Contrarily, the respondent cannot simply reject the request of the petitioner.

3. The first respondent, Tahsildar who is the competent authority to deal with the grant of patta, cancellation of patta or effect alterations or modifications in revenue records is bound to conduct an enquiry in this regard and thereafter pass a speaking order.

4. On a perusal of the impugned order, this Court is of an opinion that the same is a non speaking order and the reasons are not assigned properly. The impugned order has been passed, merely stating that the second respondent has raised an objection. If there is an objection on part of the second respondent, the first respondent is bound to conduct an enquiry and consider the matter on merits and in accordance with law and by taking into account the Judgment and Decree passed by the Civil Court in respect of parties concerned.

5. In this view of the matter, the impugned order passed by the first respondent in proceedings O.Mu/RDR.634/Mi.S1 dated 18.06.2015 is quashed. The first respondent is directed to conduct an enquiry by providing an opportunity to all the parties concerned and by taking into account, the judgment and decree passed by the Civil Courts and pass final orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioner as well as the second respondent are at liberty to submit their objections/explanations and documents before the first respondent. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Deputy Registrar

// True Copy//

Sub Assistant Registrar

pns

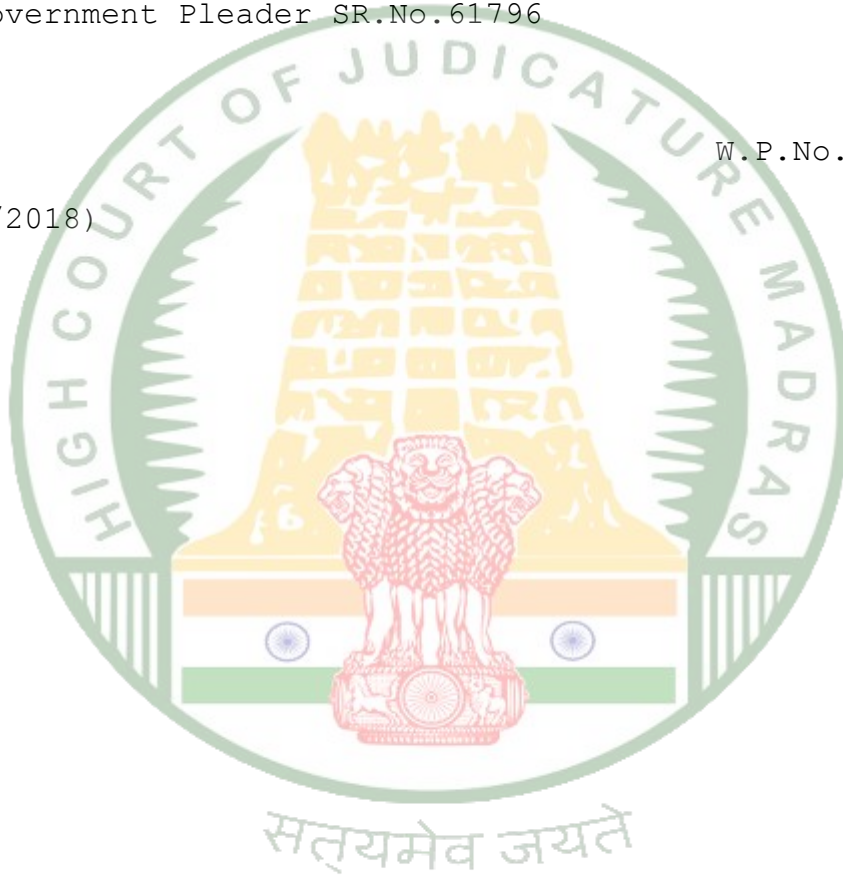
To

The Tahsildar,  
O/o.Taluk Office, Kangayam,  
Tiruppur District.

+lcc to Mr.C.Prakasa,, Advocate SR.No.61645  
+lcc to Mr.K.V.Sanjeev kumar, Advocate SR.No.61367  
+lcc to Government Pleader SR.No.61796

W.P.No.531 of 2016

RMP (26/09/2018)



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