

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 18.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.124 of 2016
and
C.M.P(MD)No.567 of 2016

N.Alagan ... Appellant/3rd party

Vs.

1.V.Meenakshi ... 1st Respondent/Writ Petitioner

2. The District Collector,
Collectorate Office,
Madurai District.

3. The Tahsildar,
Madurai South,
Collectorate Office,
Madurai.

... Respondents 1 & 2/Respondents 1 & 2

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to allow the Writ Appeal and set aside the order made in W.P(MD) No.7441 of 2014 dated 29.04.2014.

Prayer in WP(MD). 7441/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 2nd respondent to make an enquiry about to change of revenue records pursuant to petitioner s 1st representation dated 05.12.2012 and pass any other appropriate orders in the facts and circumstances of the case and thus render justice.

For Appellant : Mr.T.Antony Arul Raj

For R-1 : Mr.A.Vadivel

For R2 & R3 : Mr.M.Murugan,
Government Advocate

**JUDGMENT**

(Judgment of the Court was delivered by
M. SATHYANARAYANAN, J.)

The appellant, who is a third party, after obtaining leave to challenge the impugned order, dated 29.04.2014 passed in W.P (MD) No.7441 of 2014, has filed this writ appeal.

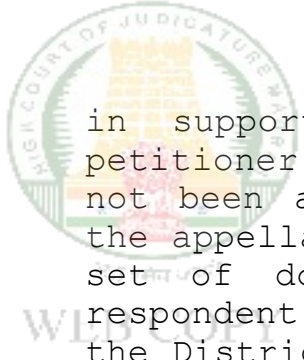
2. The first respondent/writ petitioner has filed the said writ petition praying for issuance of a writ of Mandamus directing the second respondent, namely, the Tahsildar, Madurai South, Madurai, to make an enquiry with regard to the change of revenue records pursuant to the representation, dated 05.12.2012. The first respondent/writ petitioner in the affidavit filed in support of the said writ petition would, among other things, aver that her father Velu was in possession and enjoyment of the land admeasuring to an extent of 4.5 ares in Survey No.52/18 situated at Nedumadurai, Madurai South Taluk, Madurai and the said land was also subjected to statutory levies and those levies were also paid by the petitioner. She has also made a claim that prior to her father, the land in question was owned by her grandfather Velliyan and a joint patta No.155 was also issued in favour of the said Velliyan and after his demise, the father of the first respondent/writ petitioner has succeeded the said estate.

3. The first respondent/writ petitioner also made a claim in the year 1987, Updating the Register system came into force and due to inadvertence, in respect of the land in Survey No. 52/18, the name of Alagan has been entered in the revenue records and after becoming aware of the same, the representation has been submitted to cause enquiry and rectify the same. Since the representation in this regard, failed to invoke any response, she came forward to file the said writ petition. The writ petition came to be disposed of at the admission stage itself on 29.04.2014.

4. The learned Judge after extracting the factual aspects, directed the second respondent to consider and dispose of the writ petitioner/first respondent's representation dated 15.1.2014, after issuing notice to Mr.Alagar, son of Nanda Moopar and also to any other necessary/concerned parties and conduct an enquiry and pass appropriate orders in accordance with law within a stipulated time.

5. Mr.Alagan, son of Nanda Moopar aggrieved by the said order, had filed this appeal after obtaining leave.

<https://hcservices.ecourts.gov.in/hcservices/>
The learned Counsel appearing for the appellant/3rd party would submit that though in the affidavit filed



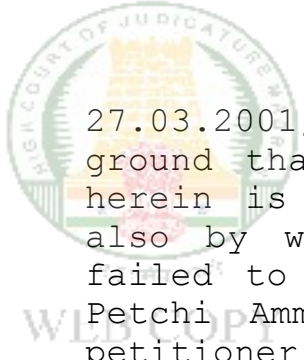
in support of the writ petition, the first respondent/writ petitioner has disclosed the appellant's name, admittedly, he has not been arrayed as a party/respondent. The learned Counsel for the appellant, by drawing the attention of this Court to the typed set of documents, especially, to the proceedings of the 3rd respondent - the Revenue Divisional Officer, Madurai as well as the District Revenue Officer, Madurai and would submit that in the proceedings before the Revenue Divisional Officer, Madurai as well as the District Revenue Officer, Madurai, the first respondent/writ petitioner is one of the petitioners, wherein similar request made, came to be rejected expressly and by suppressing the said fact, the first respondent/writ petitioner wanted to reopen the issue by filing the present writ petition. Since she has failed to approach this Court with clean hands, she is not entitled to get any indulgence from this Court and the learned Counsel appearing for the appellant on merits would contend that admittedly, the finding rendered by the District Revenue Officer vide order, dated 18.08.2006 has not been put to challenge and it has become final and as such, the writ petition ought not to have been ordered and prays for interference.

7. Per contra, the learned Counsel for the first respondent/writ petitioner would submit that since an inadvertent error took place while updating the Register, a representation was submitted and this Court, while passing the impugned order in the writ petition, also directed the 3rd respondent herein to put the appellant on notice and thereafter, dispose of the representation on merits and in accordance with law within the stipulated time and as such, the appellant herein cannot be termed as an aggrieved person and prays for dismissal of this writ appeal.

8. This Court heard the submissions of Mr.T.Antony Arul Raj, the learned Counsel appearing for the appellant, Mr.A.Vadivel, learned Counsel appearing for the first respondent and Mr.M.Murugan, learned Government Advocate appearing for the respondents 2 and 3.

9. A perusal of the typed set of documents filed in support of this writ appeal would disclose that the father of the first respondent/writ petitioner had approached the 3rd respondent herein for transfer of patta in respect of the land comprised in Survey Nos.52/18 and 19 situated at Nedu Madurai, Madurai South Taluk, Madurai and the said representation came to be rejected on 27.03.2001 on the ground that the father of the first respondent did not produce all the documents.

10. Thereafter, he died and therefore, his legal heirs, namely, his wife, one Tmt.Petchi Ammal, and her daughters and sons Mr.Fernadass Sitharaman, Tmt. Arumugam and Tmt. Meenaksi (first respondent/writ petitioner) had filed an appeal before the Revenue Divisional Officer and vide proceedings dated



27.03.2001, the said appeal also came to be dismissed on the ground that as per the documents made available, the appellant herein is entitled to the property in question ancestrally and also by way of succession and further that the appellant has failed to produce any document to substantiate her claim. Tmt. Petchi Ammal and 4 others including the first respondent/writ petitioner challenging the dismissal of the appeal by Revenue Divisional Officer, Madurai filed a revision before the District Revenue Officer, Madurai and the said revision also came to be dismissed.

11. Admittedly, no challenge has been made to the said proceedings, even after a lapse of nearly 9 years.

12. The first respondent/writ petitioner, though is a party to the appeal before the Revenue Divisional Officer, Madurai as well as before the District Revenue Officer, Madurai in revision, has failed to disclose the said facts in the affidavit filed in support of the present writ petition and that apart, she has failed to make a challenge to the proceedings of the District Revenue Officer, Madurai, dated 18.12.2008.

13. In the considered opinion of this Court, if the first respondent/writ petitioner disclosed the said fact, the impugned order in all probability would not have been passed. Though in the impugned order, a direction has been given to the third respondent to consider and dispose of the petitioner's representation after putting the appellant herein on notice, in the considered opinion of this Court, the said order reopens the issue and it may give a fresh cause of action for the first respondent/writ petitioner to put forth the very same plea, which came to be rejected in the form of order passed by the District Revenue Officer, Madurai.

14. In the result, the writ appeal is allowed and the order dated 29.04.2014 passed in W.P(MD)No.7441 of 2014, is set aside. However, in the circumstances, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
 Secretariat, District Office,
 Madurai District.



2. The Tahsildar,
Madurai South,
Collectorate Office,
Madurai.

+ 1 cc TO The Special Government Pleader in SR No. 42885
+ 1 cc TO Mr.T.Antony Arul Raj , Advocate in SR No. 42718

am/dsk

AE/KK/SAR4/01.02.2018/5P/5C

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