



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P (MD) No.7746 of 2010

and

M.P (MD) No.2 of 2010

WEB COPY

R.Shanmugham

... Petitioner

vs.

1.The Revenue Divisional Officer,
Ramanathapuram.

2.D.Ilango

3.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

4.R.Radha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent made in his proceedings A6/2618/2010, dated 10.05.2010 and quash the same.

For Petitioner	: Mr.S.Baranitharan for Mr.J.Barathan
For RR 1 & 3	: Mr.K.Mu.Muthu, Additional Government Pleader.
For R - 2	: Mr.P.Arun Jayatram
For R - 4	: Mr.RM.Arun Swaminathan

ORDER

Mr.S.Baranitharan, learned counsel representing Mr.J.Barathan, counsel on record for writ petitioner, Mr.K.Mu.Muthu, learned Additional Government Pleader on behalf of respondents 1 and 3 (official respondents), Mr.P.Arun Jayatram, learned counsel on behalf of second respondent and Mr.RM.Arun Swaminathan, learned counsel on behalf of fourth respondent are before this Court.

2.With consent of all aforementioned learned counsel, main writ petition is taken up, heard out and is being disposed of.

3.Earlier proceedings of this Court dated 01.11.2019 encapsulates necessary facts ie., factual matrix in a nutshell as
<https://hcservices.ecourts.gov.in/hcservices/>



well as controversy in instant Writ Petition in a nutshell and the same reads as follows:

'Mr.J.Barathan, learned counsel on behalf of writ petitioner, Mr.K.Mu.Muthu, learned Additional Government Pleader on behalf of respondents 1 and 3 (official respondents) and Mr.RM.Arun Swaminathan, learned counsel on behalf of fourth respondent (private respondent) are before this Court.

2. There is no representation on behalf of second respondent.

3. An 'order dated 10.05.2010 bearing Reference No.A6/2618/2010 made by the first respondent (RDO)' (hereinafter referred to as 'impugned order' for brevity) has been called in question.

4. Writ petitioner has filed a petition before RDO seeking certified copy of the impugned order for the purpose of preferring what according to writ petitioner is a 'Nky;KiwaPL'. However, under Section 13 of the 'Patta Pass Book Act, 1983 (Tamil Nadu Act 4 of 1986)' ('said Act' for brevity) it is only a revision to DRO.

5. Be that as it may, writ petitioner asserts that certified copy of the impugned order has not been served on the writ petitioner until today.

6. Learned State Counsel to keep the revenue records ready and also have an official deputed from the office of the first respondent to assist him in the next listing.

7. List on **05.11.2019.**

4. To be noted, short forms and abbreviations used in the earlier proceedings (extracted and reproduced supra) will continue to be used in this order also.

5. Today, learned State Counsel for respondents 1 and 3 submits that records are not available and all the records pertaining to proceedings qua the impugned order have since been destroyed.

6. Therefore, the issue which has been encapsulated in the previous proceedings cannot now be resolved.



7.Faced with the above situation, all the aforesaid counsel before this Court agreed that it would be appropriate that impugned order is set aside and the matter is remanded back to the first respondent for rehearing the appeal of the fourth respondent on its own merits and in accordance with law more particularly in accordance with Section 12 of the 'Patta Pass Book Act, 1983 (Tamil Nadu Act 4 of 1986)' ('said Act' for brevity) which is the statutory appeal provision.

8.The following order is passed:

a) Impugned order being order dated 10.05.2010 bearing Reference No.A6/2618/2010 made by the first respondent is set aside. It is made clear that impugned order is set aside only for the purpose of facilitating hearing afresh and therefore, this Court has not expressed any opinion or view on the merits of the matter.

b) The first respondent shall take up the statutory appeal of the fourth respondent being a statutory appeal under Section 12 of said Act, hear the same on its own merits and in accordance with law, after putting all the parties concerned on notice, after giving reasonable opportunity to all the parties concerned and then pass orders.

c) The aforesaid exercise shall be completed by first respondent as expeditiously as possible and in any event within a period of twelve weeks from the date of receipt of a copy of this order.

d) The order so passed by the first respondent shall be communicated to writ petitioner, fourth respondent and others concerned (if any) under due acknowledgement within seven working days from the date of order of second respondent.

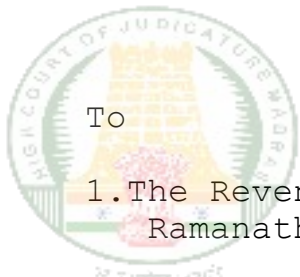
10.Instant Writ Petition is allowed with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Revenue Divisional Officer,
Ramanathapuram.

2.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

+1 CC to M/s.RM.ARUN SWAMINATHAN, Advocate

(SR-96200[F] dated 05/11/2019)

+1 CC to M/s.SPL GP (SR-96325[F] dated 06/11/2019)

+1 CC to M/s.T.R.JEYAPALAM, Advocate

(SR-96371[F] dated 06/11/2019)

ps/**sma (25.11.2019) 4P 6C**

W.P (MD) No.7746 of 2010

5.11.2019