



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2019

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.A(MD)NO.847 OF 2019
and
C.M.P(MD)No.7234 of 2019**

Sivakumar :Appellant/5th Respondent

.vs.

1.E.Nirmala Devi :Respondent/Petitioner

2.The District Collector,
Trichy District,
Trichy.

3.The Revenue Divisional Officer,
Musiri,
Trichy District.

4.The Tahsildar,
Thottiyam Taluk,
Trichy District.

5.The Firka Surveyor,
Periyapallipalayam,
Thottiyam Taluk,
Trichy District.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.23557 of 2018, dated 28.11.2018.

Prayer in WP(MD). 23557/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in File.No.2018 / 0105 / 15 / 027038, dated 26/10/2018 quash the same and direct the respondents 3 and 4 to issue separate patta to the petitioner for the land measuring 7 acres 36-1/2 cents situate on the southern half of S.No.63 of Periyapallipalayam Village, Thottiyam Taluk, Trichy District .



For Appellant : Mr.S.Ramesh
For Respondent-1 : Mr.M.Saravanan
For Respondents : Mr.VR.Shanmuganathan
2 to 5 : Special Govt.Pleader

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JUDGMENT

[Judgment of the Court was made by **K.RAVICHANDRABAABU, J.**]

Mr.M.Saravanan, learned counsel takes notice for the first respondent and Mr.VR.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 2 to 5.

2.By consent, this Writ Appeal is taken up for final disposal at the admission stage itself, since the order to be passed herein is not going to affect the interest of any of the parties, in any manner.

3.This Writ Appeal is directed against the order of the Writ Court made in W.P(MD)No.23557 of 2018, dated 28.11.2018. The appellant is the fifth respondent in the Writ Petition. The Writ Petitioner challenged the order of the Tahsildar, dated 26.10.2018 issued in respect of patta proceedings. The Writ Court disposed the Writ Petition, by observing that the respondents 3 and 4 therein had unilaterally closed the application filed by the Petitioner, dated 26.10.2018, in violation of principles of natural justice. Therefore, the Writ Court directed the third respondent/Tahsildar, Thottiyam Taluk, Trichy District to consider the representation of the Petitioner, dated 7.8.2018 afresh and after holding enquiry, pass orders on merits and in accordance with law.

4.The grievance of the appellant before us is that when he was arrayed as fifth respondent in the Writ Petition, the Writ Court should have granted opportunity for the fifth respondent also to take part in the enquiry and put-forth his case before the Tahsildar.

5.The learned counsel appearing for the Writ Petitioner/first respondent submitted that in pursuant to the order passed by the Writ Court, though the Tahsildar commenced the enquiry, he has not passed any final orders so far and still the enquiry is going on. If such being the factual position, we are of the view that the Tahsildar can also hear the appellant/5th respondent in the Writ Petition while considering the application filed by the Writ Petitioner. We make it clear that we are not expressing any view on



the merits of the claim made by the appellant or by the Writ Petitioner, as it is for the Tahsildar to consider and decide the matter afresh.

6. Accordingly, this Writ Appeal is disposed of by directing the Tahsildar, Thottiyam Taluk, Trichy District to hear the appellant also and pass final orders on merits and in accordance with law, as directed by the Writ Court. Such exercise shall be done by the Tahsildar within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

vsn

To

- 1.The District Collector,
Trichy District, Trichy.
- 2.The Revenue Divisional Officer,
Musiri, Trichy District.
- 3.The Tahsildar,
Thottiyam Taluk,
Trichy District.
- 4.The Firka Surveyor,
Periyapallipalayam,
Thottiyam Taluk,
Trichy District.

+1CC TO MR.V.RAGHAVACHARI, Advocate Sr. No.81312
+1CC TO MR.R.SUBRAMANIAN, Advocate Sr. No.81444
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.81487

JUDGMENT MADE IN
W.A(MD)NO.847 OF 2019
and
C.M.P(MD)No.7234 of 2019
09.08.2019

MR(CO)

TR (30.08.2019) 3P 8C