



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 01.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos. 781, 333 and 3461 of 2017

and

W.M.P (MD) .Nos. 634, 635, 636,

637 , 238, 239, 240, 241, 2814, ,

2815 and 2816 of 2017

W.P. (MD) No. 781 of 2017

1.Nagamani

2.K.Paraniselvi

3.Thayammal

4.Jayalakshmi

5.Arasammal

6.Rajammal

... Petitioners

Vs

1.The District Collector,
Madurai District.

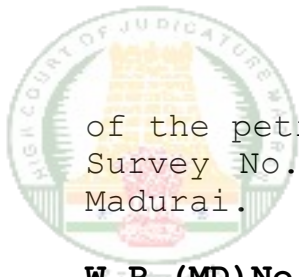
2.The District Revenue Officer,
Madurai District.

3.The Revenue Divisional Officer,
Madurai.

4.The Tahsildar,
Madurai South Taluk, Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the impugned order in Na.Ka.No.14752/2007/C dated 03.08.2015 on the file of the third respondent and the consequent impugned order in Roc.No.36118/2015/J4 dated 19.12.2016 on the file of the second respondent and quash the same and further directing the respondents to restore the possession



of the petitioners bearing Plot Nos.10, 13, 14, 15, 16 and 47 in Old Survey No.994/1A and TS No.116, Arapalayam Main Road, Melmadurai, Madurai.

W.P. (MD) No.333 of 2017

1.M.Chellamani

2.P.Kalavathi

3.P.Sundari

4.M.Dhanam

5.P.Vijayalakshmi

6.M.Muthulakshmi

7.Thangammal

... Petitioners

Vs

1.The District Collector,
Madurai District.

2.The District Revenue Officer,
Madurai District.

3.The Revenue Divisional Officer,
Madurai.

4.The Tahsildar,
Madurai West Taluk,
Madurai District

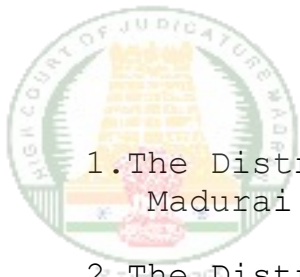
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent's impugned proceedings in Na.Ka.No.14752/2007/C dated 03.08.2015 and consequential impugned order in ROC.No.36118/2015/J4 dated 15.12.2016 passed by the second respondent and quash the same as illegal and consequently directing the respondents to restore the possession of the petitioners bearing Plot Nos.30, 38, 39, 41, 42, 43 and 46 comprised in old Survey No.994/1A, Ward No.5, Block No.33, T.S.No.116, Arappalayam Main Road, Melmadurai, Madurai-625 016.

W.P. (MD) No.3461 of 2017

K.Ayyammal

... Petitioner



1.The District Collector,
Madurai District.

2.The District Revenue Officer,
Madurai District.

3.The Revenue Divisional Officer,
Madurai,
Madurai District.

4.The Tahsildar,
Madurai South Taluk,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent proceedings in Na.Ka.No.14752/2007/C dated 03.08.2015 and consequential impugned order in ROC No.36118/2015/J4 dated 15.12.2016 passed by the second respondent and quash the same as illegal and consequently directing the respondents to restore the possession of the petitioner bearing Plot No.7 situated at Old Survey No.994/1A, Ward No.5, Block No.33, T.S.No.116, Arappalayam Main Road, Melmadurai, Madurai-625 016.

For Petitioner in WP(MD)No.781 OF 2017: Mr.G.Prabhu Rajadurai.

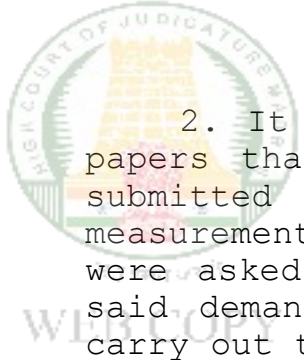
For Petitioner in WP(MD)No.333 and 3461 OF 2017: Mr.V.Thirumal

For Respondents : Mr.M.Karuppasamy
in all 3 WP's Government Advocate

COMMON ORDER

Heard the learned counsel on either side.

2. The writ petitioners were assigned one cent of land in Survey No.994/1A and T.S.No.116 situated in Melmadurai, Arapalayam Main Road, Madurai West Taluk. The properties originally belonged to the Government. It was classified as a burial ground. However, the petitioners were in occupation of the said burial ground for a very long time. Considering their long occupation, the Government issued orders of assignment in favour of the writ petitioners and others on 20.07.2010. The patta was also subsequently issued in their favour. One of the assignment conditions was that they should put up construction on the assigned land. Alleging that the condition was not complied with, the assignments made in favour of the writ petitioners were cancelled. Challenging the same, these writ petitions have been filed.



2. It is seen from the materials enclosed in the typed set of papers that after the assignment orders were made, the assignees submitted petitions before the Tahsildar, Madurai, seeking measurement and demarcation of the assigned sites. The petitioners were asked to remit the fees. The petitioners complied with the said demand. Even thereafter, the revenue authority declined to carry out the exercise of survey, measurement and demarcation. As a result, the petitioners were not sure as to where they can put up the construction.

3. The authority cannot take advantage of their own wrong. Merely assigning a site and issuing proceedings and patta alone would not be sufficient. The authority will have to formally demarcate the assigned site and physically hand over the same to the assignees. It is because they did not do so, the assignees were not in a position to comply with the condition to put up a construction.

4. Since I have come to the conclusion that the assignees cannot be blamed for non fulfilment of the condition stipulated in the assignment order, the order impugned in these writ petitions stand quashed. These Writ Petitions are allowed. The jurisdictional Tahsildar is directed to carry out the work of survey, measurement and demarcation of the assigned sites within a period of twelve weeks from the date of receipt of a copy of this order.

5. The learned Government Advocate points out that as regards plot No.37 is concerned, the original assignee Petchiammal has passed away and she is not having any legal heir. In such a case, it is always upon to the authority to assign the said site in favour of any other eligible person.

6. These Writ Petitions are allowed accordingly. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The District Collector,
Madurai District.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The District Revenue Officer,
Madurai District.



3.The Revenue Divisional Officer,
Madurai.

4.The Tahsildar,
Madurai South Taluk, Madurai.

5.The Tahsildar,
Madurai West Taluk, Madurai.

1CC TO MR. G. PRABHU RAJADURAI. ADVOCATE SR 58434

2CC TO MR. V. THIRUMAL, ADVOCATE SR 58737 AND 58738

1CC TO THE SPL GOVT PLEADER SR 58366

KK
27/04/2019
5P/10C

W.P. (MD) Nos. 781, 333 and 3461 of 2017

01.04.2019

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