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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.1825 of 2019

Kuttiammal

... Petitioner

vs.

1. The Settlement Officer,
Chepauk, Triplicane,
Chennai - 600 005.
2. The Assistant Land Tax Settlement Officer,
Chepauk,
Chennai 600 005.
3. The Special Tahsildar,
Urban Land Tax Administration,
Tiruchengode,
Namakkal District.
4. M.Angammal
5. N.Vasudevan
6. N.Shanmugam
7. T.M.Krishnakumar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the order passed by the 1st Respondent in Na.Ka.I 2/5511/2017 dated 28.12.2018, and quash the same.

For Petitioner	:	Mr.R.Marudhachalamurthy
For Respondent 1 to 3	:	Mr.U.Baranidharan Addl. Government Pleader
For Respondent 4 to 7	:	Mr.T.L.Thirumalaisamy

O R D E R

Petitioner has come up with this Writ Petition challenging the order passed by the 1st Respondent vide Na.Ka.I 2/5511/2017 dated 28.12.2018.



2. According to the Petitioner, her husband E.Mani had filed an Application before the 3rd Respondent on 22.05.2014 seeking the relief of inclusion of legal heirs of Erulappa Mudaliar in the Patta relating to Old S.No.148/2, Ward-C, Block 5, Kailasampalayam Village, Tiruchengode, Namakkal District. However, the 4th Respondent's husband viz. T.R.Murugesan had objected to the same. The 3rd Respondent, after conducting detailed enquiry passed an order on 06.04.2015, thereby including the legal heirs of N.Irulappa Mudaliar in the Patta pertaining to the abovesaid property.

3. Aggrieved by the order of the 3rd Respondent, the 4th Respondent's husband filed an Appeal before the 2nd Respondent, who, by an order dated 17.07.2017, confirmed the order dated 06.04.2015 passed by the 3rd Respondent. Challenging the order dated 17.07.2017 passed by the 2nd Respondent, the 4th Respondent filed further Appeal before the 1st Respondent in Appeal No.5511 of 2017, as her husband T.R.Murugesan expired after passing of the order by the 2nd Respondent.

4. It is further stated by the Petitioner that, Respondents 5, 6 and 7, who got themselves impleaded in the Appeal, are not necessary parties. As per the direction of the 1st Respondent, the Petitioner filed counter to the Appeal. However, the 1st Respondent refused to give an opportunity of hearing to the Petitioner. Hence, the Petitioner filed W.P.No.33961 of 2018 seeking a direction to the 1st Respondent to conduct Appeal No.5511 of 2017 in the manner known to law, by providing fair opportunity to her by considering her Memo dated 10.12.2018.

5. This Court, by an order dated 19.12.2018, disposed of the said Writ Petition directing the 1st Respondent therein to issue notice to the Petitioner fixing the date of next hearing and afford an opportunity of personal hearing to the Petitioner as well as other parties to the proceedings, and pass orders in the manner known to law within a period of three months from the date of receipt of a copy of the order. The grievance of the Petitioner is that, in spite of the said order of this Court, the 1st Respondent passed the impugned order dated 28.12.2018 without application of mind and the same is liable to be quashed.

6. Learned counsel for the Petitioner contended that, the 1st Respondent failed to analyze that, the 3rd Respondent had conducted a detailed enquiry and only thereafter, included the Petitioner in the Patta. Thus, according to the learned counsel, the impugned order passed by the 1st Respondent is contrary to the order dated 19.12.2018 issued by this Court in W.P.No.33961 of 2018 and hence prayed that, the impugned order be set aside and the matter may be remanded to the 1st Respondent



for fresh consideration.

7. Learned Additional Government Pleader appearing for Respondents 1 to 3 fairly submitted that, the order of the 1st Respondent is in violation of the order dated 19.12.2018 passed by the Court in W.P.No.33961 of 2018.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. This Court, by an order dated 19.12.2018 in W.P.No.33961 of 2018, issued a direction to the 1st Respondent therein to afford an opportunity of personal hearing to the Petitioner as well as other parties and pass appropriate orders in the manner known to law. However, in violation of the said order, the 1st Respondent herein has passed the impugned order. On a perusal of the impugned order, it is seen that, no opportunity of hearing was given to the Petitioner. Hence, this Court has no hesitation to set aside the impugned order passed by the 1st Respondent. Accordingly, the impugned order dated 28.12.2018 passed by the 1st Respondent herein is set aside and the matter is remanded to the 1st Respondent, who shall consider the Petitioner's case afresh in accordance with law and pass appropriate orders after giving an opportunity of hearing to the Petitioner and the other contesting Respondents, within a period of two months from the date of receipt of a copy of this order.

The Writ Petition is allowed with the above direction. No costs. Consequently, connected W.M.P.No.2025 of 2019 is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(skt/aeb)

To:

1. The Settlement Officer,
Chepauk, Triplicane,
Chennai - 600 005.
2. The Assistant Land Tax Settlement Officer,
Chepauk,
Chennai 600 005.



3. The Special Tahsildar,
Urban Land Tax Administration,
Tiruchengode,
Namakkal District.

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+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.58130
+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.58276
+1cc to the Government Pleader, S.R.No.58023

W.P.No.1825 of 2019

KSM(CO)
CT 21/01/2022