

W.P.No.12694 of 2017

R.SURESH KUMAR, J

This writ petition had been listed on last occasion under the caption “For Clarification” at the instance of the learned Senior Counsel for the writ petitioner. Last hearing, the grievances espoused on behalf of the writ petitioner, by Mr.Sathish Parasaran, learned Senior Counsel appearing for the petitioner was to be noted for the purpose of clarification from this Court on the final Order dated 14.07.2021 made in the writ petition. Because, as per the last direction in para No.35 of the said Order, the Tahsildar has to necessarily effect the mutation in the revenue records in respect of three patta numbers in the subject land as stood on 23.04.2017, that is just one day prior to the impugned Order in the writ petition passed by the revenue authorities.

2.Though, such a direction was issued, despite the effort taken by the petitioner, the Tahsildar had not come forward to effect the mutation in respect of the pattas as stood on 23.04.2017. Therefore, the petitioner was not in a position to comply with the other directions given in the very same Order, under which, the petitioner was expected to withdraw

C.R.P.No.2044 of 2019, which is pending before this Court. On considering the said plea raised by the learned Senior Counsel for the petitioner, this Court, by Order dated 25.08.2021 has passed the following Order.

“This matter has come up today under the caption 'for clarification' at the instance of the learned counsel appearing for the parties, where the learned Senior Counsel appearing for the writ petitioner, on instructions, has submitted that the last direction given in the order, dated 14.07.2021 to the Tahsildar concerned to mutate the revenue records as it stood on 23.04.2017 has not been undertaken, though the copy of the order has been produced by the writ petitioner, for more than two weeks period. Also the learned Standing Counsel submits that, he has received a news that the fifth respondent is going to file an appeal against the order, dated 14.07.2021 passed by this Court.

2.However, Mr.K.V.Sundararajan, learned counsel appearing for the fifth respondent, on definite instructions, has submitted that the order of this Court dated 14.07.2021 has been accepted, and in this regard, a memo has been filed before the Ponneri Court, where the Suit is pending.

3.In view of the said submissions, the only issue is that, the last direction given in the said

order, to the Tahsildar should be complied with by the Tahsildar and also, based on which, the writ petitioner has to withdraw the Civil Revision Petition referred in the order, which has already been filed by the petitioner under Order VII Rule 11 of the Civil Procedure Code.

4.In this context, Mr.C.Kathiravan, learned Government Advocate appearing for the official respondents, would submit that, suitable advise would be given to the Tahsildar concerned, to comply with the last direction given in 14.07.2021 order of this Court, and report before this Court with regard to the said compliance in next hearing by one week, and hence he seeks one week time.

5.In view of the said submission made by the learned respective counsel appearing for the parties, as to whether any further clarification is to be issued in this matter, can be decided, later on, after ascertaining the compliance to be made in this regard by the Tahsildar, as undertaken by the learned Government Advocate as referred to above.

6.Hence, post this matter for such compliance on 01.09.2021 under the same caption.”

3.Pursuant to the said Order dated 25.08.2021, Mr.C.Kathiravan,

learned Government Counsel appearing for the official respondents has submitted that the last direction referred to above given to the Tahsildar concerned in fact has been complied with and in support of the same, he has produced the copy of the proceedings issued by the Tahsildar, dated 31.08.2021 in Na.Ka.No.932/2016/aa1. Relying upon the said proceedings, the learned Government Counsel would submit that, as per the direction of this Court, three pattas namely Patta No.293, 1738 and 1729 stood in the name of the petitioner or their legal heirs or family members in respect of the property in question as on 23.04.2017 stood restored, thereby, the patta which stood in the name of the petitioner as on 23.04.2017 in all the three pattas have been completely restored, he contended.

4.However, Mr.Sathish Parasaran, learned Senior Counsel for the petitioner has pointed out that in the proceedings dated 31.08.2021 of the Tahsildar, he had also mentioned about patta No.1870, which was subsequently given on 16.05.17 to and in favour of the fifth respondent or their great grant parents namely, Minor Krishnaswamy Iyer, guardian by S.S.Krishnaswamy Iyer and therefore, the said patta No.1870 if not cancelled, that will superfluous to the other three pattas, now stood

restored in favour of the petitioner, he contended.

5.However, the said apprehension on the part of the petitioner as projected by the learned Senior Counsel may not be correct, because the patta No.1870 was issued on 16.05.2017, of course, pursuant to the impugned Order in the writ petition passed by the Sub Collector dated 24.04.2017 and in view of the said Order dated 24.04.2017 having been quashed by the Orders of this Court in the writ petition and subsequently, now the proceedings have been issued by the Tahsildar on 31.08.2021, where the three above referred pattas stood in the name of the petitioner since have been restored, the patta No.1870 will have no effect and therefore, merely because the said factor has been mentioned in the Order of Tahsildar dated 31.08.2021, the petitioner need not have any apprehension that it will have a superfluous effect. Therefore, this position is clarified as such.

6.Now, the pattas since had been restored in the name of the petitioner, as per the last direction of the order of this Court dated 14.07.2021, as a sequel, the petitioner, as indicated in the Order dated 14.07.2021 of this Court, shall withdraw the aforesaid Civil Revision Petition in CRP No.2044 of 2019 immediately, preferably within a period

of ten days.

7.Insofar as the present status of the property is concerned, in view of the pattas having been restored in favour of the petitioner by the proceedings of the Tahsildar dated 31.08.2021, taking advantage of the same, the petitioner shall not create any encumbrance of the property in question or third party right. At the same time, the fifth respondent or any one on his behalf shall also not indulge in any such creation of third party right or encumbrance in the property concerned, till a verdict in this regard is obtained from the Civil Court, where the suit has been filed by the fifth respondent.

8.With these clarifications, the clarification sought for by the petitioner is ordered accordingly.

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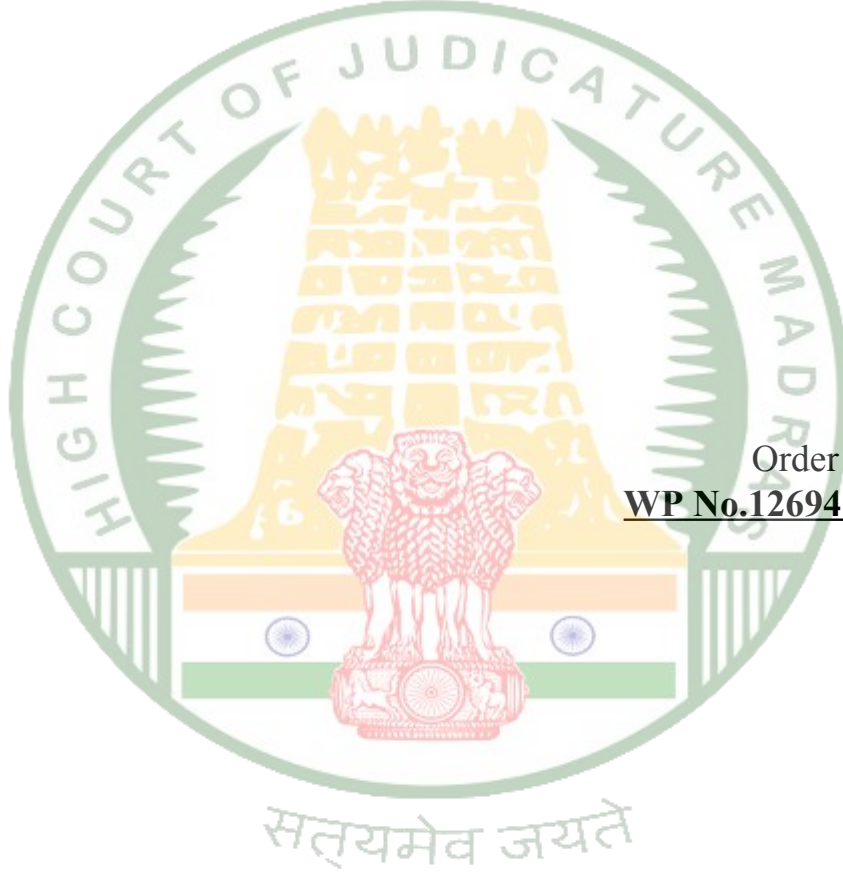
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Note : **Issue Order Copy on 03.09.2021.**

R.SURESH KUMAR ,J.

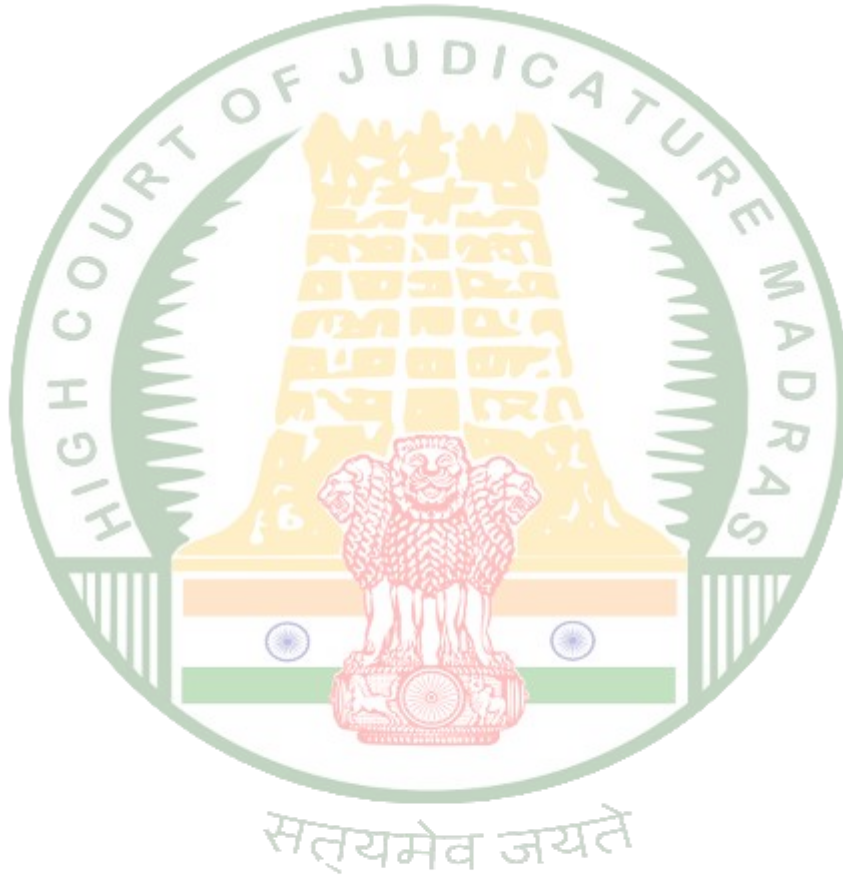
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Dated:
03.09.2021



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