



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE **M.M. SUNDRESH**

AND

THE HONOURABLE MRS. JUSTICE **S. ANANTHI**

W.A. (MD) No. 446 of 2021

and

C.M.P (MD) No. 1751 of 2021

Periya Mariyappan

: Appellant/petitioner

Vs.

1. The District Collector
O/o. The District Collector Office,
Theni District,
Theni.

2. The District Revenue Officer
O/o. The District Collector Office
Theni District, Theni

3. The Revenue Divisional Officer,
O/o. The Revenue Divisional Office
Uthamapalayam Taluk,
Theni District.

4. The Tahsildar
Tahsildar Office
Uthamapalayam Taluk,
Theni District.

5. M. Sahubar Sathick

6. Mithar Bakiri

7. A. S. Karunakaran

: Respondents/Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent as against the order dated 18.01.2021 made in W.P. (MD) No. 446 of 2021.

Prayer in WP (MD). 446/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records of the impugned order passed by the 4th respondent herein in his proceedings in Na. Ka. No. A2/5382/2018 dated 17.12.2020 received on 23.12.2020 and quash the same as illegal within a time stipulated by this Honble Court.

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



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For Appellants : Mr. Vallinayagam,
Senior Counsel
for Mr. D. Nallathambi
For Respondents 1 to 4 : Mrs. J. P. Padmavathi Devi
Special Government Pleader
For Respondents 5 to 7 : Mr. H. Mohamed Imran
for Ajmal Associates

JUDGMENT

(Judgment of the Court was delivered by **M.M. SUNDRESH, J.**)

This appeal has been preferred by the appellant being aggrieved over the order of the learned Single Judge, who dismissed the writ petition, while declining to decide it on merit on the prime view that the remedy open to the appellant is to seek a clarification in the writ petition, which has been disposed of by the Division Bench, in which, one of us was a party (M.M.S., J.).

2. The learned Senior counsel appearing for the appellant submitted that what has been challenged is the final decree passed by the official respondents. The appellant was not heard at the time of passing the order by the Division Bench and it did not go into merits of the case, except by asking the official respondent to look into the matter. Therefore, the order requires interference.

3. The learned counsel appearing for the contesting respondents submitted that the impugned order passed by the Official respondents, after taking into consideration of the earlier Division Bench, which went into merits of the case and gave certain directions.

4. On perusal of the order of the learned Single Judge, we find that no adjudication has been made on merits, except by directing the appellant to seek clarification in the order passed. Instead of directing the appellant to seek for clarification, the learned Single Judge is expected to consider the validity of the order passed as a consequence to the order passed by the Division Bench on the first occasion.

5. In such view of the matter, we set aside the order passed by the learned Single Judge with a request to decide the writ petition on merits, which is inclusive of the effect of the order passed by the Division Bench. Accordingly, the writ appeal is allowed. Consequently, connected miscellaneous petition is closed.

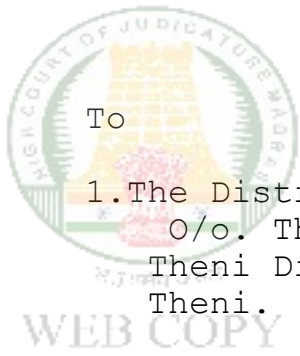
Sd/-

Assistant Registrar (CSIII)

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/ /2021

Sub Assistant Registrar (CS)



To

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4.The Tahsildar
Tahsildar Office
Uthamapalayam Taluk,
Theni District.

5.The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-7765[F] dated
01/03/2021)

+1 CC to M/s.SPL GP (SR-7848[F] dated 01/03/2021)

W.A. (MD) No.446 of 2021
26.02.2021

NA (CO)
KB(10.03.2021) 3P 8C