



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2021

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THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P. (MD)No.3324 of 2014

and

M.P. (MD)No.2 of 2014

WEB COPY

B.S.Terry ... Petitioner

vs.

1.The District Collector,
Office of the District Collector,
Madurai Road, Theni District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thamaraikulam, Periyakulam Taluk,
Theni District.

3.The Tahsildar,
Theni Taluk, Theni District.

4.The Special Tahsildar,
Natham Updating Scheme,
Theni Taluk Office, Theni District.

5.S.Kannappan

6.L.Manonmani

7.S.Kamatchi

8.K.Sundarapandian

9.M.Palpandi

10.S.Sivagnanam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.2956/2012 A-1, dated 21.02.2013 on the file of the Respondent No.2 and quash the same as illegal.

For Petitioner :Mr.S.Rajasekar

For R1 to R4 :Mr.S.Shanmugavel
Additional Government Pleader

For R5 to R10 :Mr.M.A.M.Raja

**ORDER**

This Writ Petition has been filed in the nature of Certiorari, questioning the order, dated 21.02.2013 in Na.Ka.No.2956/2012 A-1, passed by the second respondent/Revenue Divisional Officer, Thamaraiikulam, Periyakulam, Theni District.

2.The primary ground, on which the petitioner calls upon this Court to interfere is that the impugned order had been passed without notice to the petitioner and that principles of natural justice had been very seriously violated. It is also contended by the learned Counsel for the petitioner that the order is based on a report of Special Tahsildar, Natham Updating Scheme, Theni Taluk Office, Theni District, who is shown as the fourth respondent.

3.In the Writ Petition, quite apart from the revenue officials, there are also respondents 5 - 10, who appear to be directly interested in grant of patta or with any other mutation of revenue records in the name of the petitioner herein. Notices had also been directed to the said respondents and Mr.M.A.M.Raja, learned Counsel also entered appearance on their behalf and counter had also been.

4.The respondents 1 to 4 are represented by Mr.S.Shanmugavel, learned Additional Government Pleader. The second respondent/Revenue Divisional Officer, Theni, had also filed a counter affidavit. With respect to the specific allegation that the impugned order had been passed without issuing notice, it had been stated that as against the said order, an appeal can be filed before the District Revenue Officer, Theni. It is also mentioned that an appeal had also been filed and also taken on file.

5.In the documents filed along with the counter affidavit filed on behalf of the respondents 1 to 5, one of the documents is the cpy of the appeal filed by the Writ Petitioner herein, Mr.B.S.Terry, questioning the very same order, against which, the present Writ Petition has been filed.

6.The Writ Petition had been filed on 25.02.2014. The appeal before the District Revenue Officer had been filed in September 2013, prior to the filing of the above Writ Petition. This naturally means that the Writ Petitioner herein has very consciously attempted to ride two separate horses, as against the same order. He had approached the District Revenue Officer, who is the competent authority to examine any order passed by the Revenue Divisional Officer. Even if the order of the Revenue Divisional Officer is questioned on the basis that an opportunity had not been granted, the same issue could also be raised before the District Revenue Officer, who also can direct re-examination of the order by the Revenue Divisional Officer or the District Revenue Officer may



examine the records and pass order. At any rate, the competent authority has been approached by the petitioner.

7. In the affidavit filed in support of this Writ Petition, there is not even a single letter or line sworn by the petitioner stating that he had filed an appeal before the competent authority. On the other hand, grounds have been raised questioning the order impugned. I do not understand the reason behind filing the Writ Petition after the competent authority had already been approached. Forum shopping can never be encouraged nor be accepted and should be condemned and it should actually be prevented and it should be prohibited and in this case, it is prevented. On this short ground, I find no reason to exercise my mind over the grounds raised, since a competent authority had already been approached by filing a regular appeal as against the impugned order.

8. I am informed by Mr.M.A.M.Raja, learned Counsel that the appeal has also been closed by the competent authority. But that is an order invited by the petitioner himself, since he has approached two separate forums for the very same relief. Further proceedings pursuant to the impugned order may be passed by the competent authority.

9. With the above observations, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Office of the District Collector,
Madurai Road, Theni District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Thamaraikulam, Periyakulam Taluk,
Theni District.
3. The Tahsildar,
Theni Taluk, Theni District.



4.The Special Tahsildar,
Natham Updating Scheme,
Theni Taluk Office, Theni District.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-35783[F] dated
25/11/2021)

+1 CC to M/s.SPL GP (SR-35884[F] dated 25/11/2021)

W.P. (MD)No.3324 of 2014
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MGJ(04.12.2021) 4P 7C