



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.143 of 2017

and

C.M.P(MD)Nos.1534 & 1535 of 2017

and

W.P(MD)No.1065 of 2017

and

W.M.P(MD)Nos.903 to 905 of 2017

1.W.A(MD)No.143 of 2017:-

Sivaji ... Appellant / 3rd Party

Vs.

1.S.Paramasivam ... 1st Respondent / Writ Petitioner

2.The District Collector,
Theni District.

3.The District Revenue Officer,
Theni District.

4.The Tahsildar,
Bodinayakanur Taluk,
Theni District.

5.The Assistant Commissioner,
Hindu Religious and Endowment Board,
Dindigul. ... Respondents 2 to 5 / Respondents 1 to 4

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 11.04.2016 made in W.P(MD)No.13385 of 2015 on the file of this Court.

Prayer in WP(MD). 13385/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the 3rd respondent to allot pathway to the petitioners temple namely Sri Ramapiran and Karuppasamy Temply situated in S.No.217/2 at B. Meenakshipuram Village, Bodinayakanur Taluk, Theni District through the government poromboke land situated in S.No.217/1 as per recommendation of the 4th respondent dated 06.05.2015 .



For Appellant : Mr.A.Rahul
For R - 1 : Mr.K.Dinesh
For RR 2 to 5 : Mr.K.P.Narayana Kumar
Special Government Pleader

2.W.P(MD)No.1065 of 2017:-

Sivaji ... Petitioner

Vs.

1.The Commissioner & Director of Land Survey
and Settlement,
Chepauk, Chennai.

2.The District Collector,
Theni District.

3.The District Revenue Officer,
Theni District.

4.The Tahsildar,
Bodinayakkanur Taluk,
Theni District.

5.The Assistant Commissioner,
Hindu Religious and Endowment Board,
Dindigul.

6.S.Paramasivam ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.5634/2013/A6, dated 29.12.2016 passed by the fourth respondent, quash the same and consequently, to direct the first respondent to dispose of the petitioner's appeal dated 26.11.2016 within the time stipulated by this Court.

For Petitioner : Mr.A.Rahul

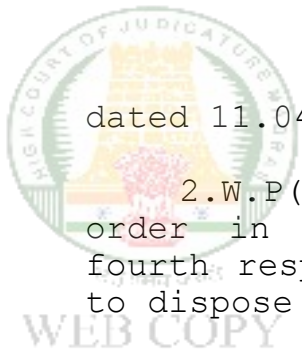
For RR 1 to 5 : Mr.K.P.Narayana Kumar
Special Government Pleader

For R - 6 : Mr.K.Dinesh

COMMON JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

W.A (MD) No.143 of 2017 is directed against the order
<https://hcservices.ecourts.gov.in/hcservices/>



dated 11.04.2016 passed in W.P(MD)No.13385 of 2015.

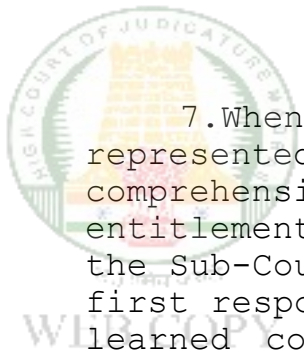
2.W.P(MD)No.1065 of 2017 is filed seeking to quash the impugned order in Na.Ka.No.5634/2013/A6, dated 29.12.2016 passed by the fourth respondent and consequently, to direct the first respondent to dispose of the petitioner's appeal dated 26.11.2016.

3.The writ petitioner in W.P(MD)No.1065 of 2017 and the appellant in W.A(MD)No.143 of 2017 are one and the same persons.

4.According to the petitioner, the property in Survey Nos.217/1 and 217/2 situate in B.Meenakshipuram Village, Bodinayakanur Taluk, Theni District, belongs to his family, wherein a Well is also situate. It is stated that during the course of changing the revenue registers from manual to typed one, the entries in the manual settlement register were changed by the respondents, who are the officials, without due notice to the family members of the petitioner and classified as 'Anatheenam' etc. Though they have been classified as 'Anatheenam, Tharisu, Poramboke' etc., the petitioner's family had been in enjoyment of the above said Survey Nos.217/1 and 217/2. A representation also has been given by the petitioner to change and restore the original entries made in the manual settlement register.

5.While so, one Paramasivam, who is the first respondent in the Writ Appeal and the sixth respondent in the Writ Petition, had filed a Writ Petition in W.P(MD)No.13385 of 2015 on the file of this Court seeking a Mandamus, directing the Tahsildar, Bodinayakanur, to allot a pathway to the Temple through the land which belongs to the petitioner in Survey No.217/1. While obtaining the order, the said Paramasivam, did not implead the petitioner herein as a party to the Writ Petition. Since it was a Mandamus that was sought for to consider the representation, a direction was issued by this Court on 11.04.2016 to the third respondent / the Tahsildar to consider the recommendation of the fourth respondent, dated 04.05.2015 and pass appropriate orders on the representation of the petitioner dated 13.04.2016 on merits and in accordance with law. Pursuant to the said direction, the present impugned order dated 29.12.2016 was passed by the Tahsildar, Bodinayakanur, who is the fourth respondent in the writ petition, permitting the first respondent-Paramasivam to temporarily use the pathway measuring 3 meters in breadth to go to the said Temple. Aggrieved by the said order of the Tahsildar, W.P(MD)No.1065 of 2017 has been filed and aggrieved by the order passed in W.P(MD)No.13385 of 2015, the Writ Appeal is preferred by the appellant as a third party.

6.It is now stated that in the Writ Appeal an order of status quo was also obtained on 23.02.2017. Therefore, after the order passed by the fourth respondent / Thasildar on 29.12.2016, nothing has happened.



7. When the above matters were taken up for hearing today, it is represented by the learned counsel for the appellant that a comprehensive suit, to go into the title of the parties and their entitlement, was filed in O.S.No.313 of 2017 by the appellant before the Sub-Court, Theni and it is posted for hearing on 25.01.2021. The first respondent-Paramasivam is also a party therein. Therefore, the learned counsel appearing for both the parties represented that since a comprehensive suit is pending and ripe for trial, their remedies can be worked out in the pending suit, which can go into the factual details and decide the claim of the parties.

8. Recording the same, the parties are directed to work out their remedies in the suit which is pending, as mentioned earlier. Since the order of the Tahsildar is not acted upon till today, till the disposal of the suit status quo will continue. The learned Subordinate Judge, Theni is directed to dispose of the suit in O.S.No.313 of 2017 as expeditiously as possible.

9. With the above directions, the Writ Appeal and the Writ Petition are disposed of. No costs. consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

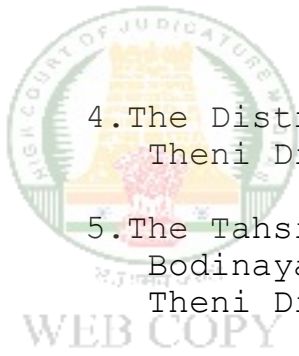
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To

1. The Subordinate Judge,
Theni.

2. The Commissioner & Director of Land Survey
and Settlement,
Chepauk, Chennai.

3. The District Collector,
Theni District.



4.The District Revenue Officer,
Theni District.

5.The Tahsildar,
Bodinayakkanur Taluk,
Theni District.

6.The Assistant Commissioner,
Hindu Religious and Endowment Board,
Dindigul.

7.The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.RAHUL, Advocate (SR-1196[F] dated 19/01/2021)

+1 CC to M/s.GP (SR-1377[F] dated 20/01/2021)

W.A (MD) No.143 of 2017
and
W.P (MD) No.1065 of 2017
18.01.2021

SJ(CO)
KK(03.02.2021) 5P 10C