



W.P(MD)No.17582 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17582 of 2013

and

M.P(MD)Nos.1 & 2 of 2013

M.Balaguru

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Paramakudi Taluk,
Ramanathapuram District.

2.The Tahsildhar,
Office of Tahsildhar,
Mudhukulathoor,
Ramnad District.

3.Ganapathy
4.Velmurugan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned patta issued by the second respondent in Ne.Mu.(A10) Tha.Pa.Ma.6695/12 (A2), dated 11.06.2012 and quash the same and consequently forbearing the second respondent to effect any name transfer in the village revenue records in Survey Number 300/2 measuring 59 cents in Melamudhukulator village, Mudhukulatoor Taluk, Ramanathapuram District.



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W.P(MD)No.17582 of 2013

For Petitioner : M/s.M.S.Suresh Kumar
For R-1 & R-2 : M/s.M.Lingadurai
Special Government Pleader
For R-3 & R-4 : No appearance

ORDER

The present Writ Petition has been filed challenging an order passed by the first respondent herein, under which, he has refused to entertain an appeal arising out of patta proceedings, on the ground that I.A.No.422 of 2012 is pending in O.S.No.47 of 2011 on the file of the Subordinate Court, Paramakudi.

2. According to the learned Counsel for the petitioner, the petitioner had filed O.S.No.47 of 2011 on the file of the Subordinate Court, Paramakudi, as against the third and fourth respondents herein for the relief of declaration of title and permanent injunction. The said suit was decreed exparte in favour of the writ petitioner on 31.07.2012. Thereafter, the petitioner has approached the first respondent herein for transfer of patta in his favour. The first respondent has passed the impugned order, refusing to entertain the appeal on the ground that, the third and fourth respondents herein have filed I.A.No.422 of 2012 to set



W.P(MD)No.17582 of 2013

aside the exparte decree. Only on the said ground, the first respondent has refused to entertain the appeal. Hence, the present writ petition.

3. Though the third and fourth respondents herein have been served, there is no appearance on their side either in person or through Counsel.

4. A perusal of the impugned order indicates that the first respondent has refused to entertain the appeal, only on the ground of pendency of an application to set aside the exparte decree. The learned Counsel for the petitioner is not in a position to place on record, whether the application in I.A.No.422 of 2012 has been allowed or dismissed.

5. In view of the above said facts and the non appearance of the third and fourth respondents herein, this Court passes the following order:

"(i) The order impugned in the writ petition is set aside and the matter is remitted back to the file of the first respondent herein.



W.P(MD)No.17582 of 2013

(ii) The first respondent is directed to issue notice to the third and fourth respondents and the writ petitioner before passing any orders.

(iii) In case, if the first respondent finds that O.S.No.47 of 2011 has already been restored, the appeal filed by the writ petitioner may be closed, awaiting the judgment and decree of the civil Court. On the other hand, if the first respondent finds that I.A.No.422 of 2012 has been dismissed and the decree in O.S.No.47 of 2011 has become final, he shall proceed to pass orders on merits and in accordance with law.

(iv) The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order."

6. The writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

12.10.2022



W.P(MD)No.17582 of 2013

Index : Yes / No

Internet : Yes / No

btr

To

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2.The Tahsildhar,
Office of Tahsildhar,
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W.P(MD)No.17582 of 2013

R.VIJAYAKUMAR, J.

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Order made in
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