



W.P.(MD).No.17160 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.17160 of 2015

and

M.P(MD)Nos.1 and 2 of 2015

V.Thedivantha Selvam

... Petitioner

Vs.

1.The District Revenue Officer,
Collectorate,
Madurai-625 020.

2.The Revenue Divisional Officer,
Collectorate,
Madurai-625 020.

3.The Tashsildar,
Melur Taluk Office,
Melur Post & Taluk,
Madurai District.

4.The Head Surveyor,
Melur Taluk Office,
Melur Post & Taluk,
Madurai District.

5.P.Vellaichamy

... Respondents



W.P.(MD).No.17160 of 2015

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order passed by the impugned notice issued by the fourth respondent in FL/RTR/487/15 dated Nil served on the petitioner on 16.09.2015.

For Petitioner : M/s.P.Jessi Jeeva Priya
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader
for R1 to R4

ORDER

The present writ petition has been filed challenging a notice issued by the fourth respondent herein, under which the petitioner and the fifth respondent have been called for an enquiry along with their title deeds so as to conduct a survey on 18.09.2015. This notice is under challenge in the present writ petition.

2. According to the learned counsel for the petitioner, the fifth respondent had filed W.P(MD)No.14073 of 2015 seeking a Writ of Mandamus against the Tahsildar and Head Surveyor to conduct a survey of his properties in certain survey numbers. The said writ petition was



W.P.(MD).No.17160 of 2015

allowed directing the Head Surveyor to pass appropriate orders on merits and in accordance with law after giving due opportunity to all the legal heirs of late.Perappa Konar and all other necessary parties, if any within a period of four weeks from the date of receipt of a copy of that order. The petitioner therein was directed to furnish the particulars of the other legal heirs to the Head Surveyor. Relying upon the said order, the learned counsel for the petitioner contended that without conducting a proper enquiry, the fourth respondent herein has issued the present impugned notice fixing the date for conducting the survey. Hence, he prayed for allowing the writ petition by setting aside the notice issued by the Head Surveyor.

3. Per contra, the learned counsel for the fifth respondent had contended that the fifth respondent has sold away the property to one Nallazhagan on 03.01.2013. Thereafter, the said Nallazhagan has sold it to one Raja Prabhu on 29.12.2017. Hence, as on today, the said Raja Prabhu is the owner of the disputed property. He further contended that the writ petitioner do not have any title over the said properties and the



W.P.(MD).No.17160 of 2015

petitioner cannot have any objection, whatsoever for conducting a survey. Hence, he prayed for sustaining the impugned notice.

4. Admittedly, this Court has passed an order on 07.08.2015, in which the Head Surveyor was directed to conduct an enquiry after giving due opportunity to all the legal heirs of late.Perappa Konar and all other necessary parties. However, by way of impugned notice, the Head Surveyor has already fixed the date of survey without conducting an enquiry as directed by this Court by its order, dated 07.08.2015. Hence, the order is set aside.

5. In view of the above discussion, the following order is passed:

(i) The order impugned in the writ petition passed by the Head Surveyor is set aside.

(ii) The fifth respondent herein or the present owner Raja Prabhu are at liberty to file afresh application for conducting survey before the fourth respondent.



W.P.(MD).No.17160 of 2015

(iii) In case, if any application is filed for

conducting survey, the fourth respondent is directed to strictly adhere to the directions of this Court made in W.P(MD)No.14073 of 2015, dated 07.08.2015.

6. With the above said observations, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.06.2022

Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.17160 of 2015

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W.P.(MD).No.17160 of 2015

R.VIJAYAKUMAR ,J.

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