



W.P.(MD).No.10019 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

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Irullappa Swamy Kovil Trust,
Rep.by its Trustee,
Maran
S/o.Irulappakone

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Madurai.

2.Ramakrishnan

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent in Pa.Mu.No.8966/2022/B dated 10.03.2023 and quash the same and consequently directing the first respondent to conduct de-novo enquiry in respect of Survey No.56/1A3, Chettikulam Revenue Village, Madurai North Taluk, Madurai District, within a time stipulated by this Court.



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For Petitioner : Mr.R.M.Arun Swaminathan

For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader
for R1

ORDER

The writ petitioner questions the order passed by the first respondent, the Revenue Divisional Officer dated 10.03.2023 in Pa.Mu.No.8966/2022/B.

2. The petitioner claims that the land in question namely, the land at Survey No.56/1A3, Chettikulam Revenue Village, Madurai North Taluk, Madurai District, stood in the name of Irullappa Swamy Kovil Trust, for which the father of the petitioner, namely, Irulappakone was the Trustee. Thereafter, the father died. On application given by the petitioner, the name of the petitioner was substituted in the name of the father. However, the second respondent herein, who is said to be a distant relative, had made an application to the first respondent to restore the name only as Irullappa Swamy Kovil Trust.



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3. The learned Special Government Pleader appearing for the first respondent would submit that in the 'A' Register, only the name of the Temple was given.

4. These are facts which can be examined only by the Revenue Authorities. The main grievance of the learned counsel appearing for the petitioner is that the impugned order was passed without issuing notice to the petitioner. It is further stated that this Court should invoke the power under Article 226 of the Constitution of India and interfere with the said order.

5. But, however, there is an appellate provision. I find that the Appellate Authority can also examine the very same issue. Hence, a direction is given to the petitioner to file a regular appeal which he naturally should do and when the appeal is presented, the Appellate Authority may take up as first issue whether the petitioner was served with the notice by the first respondent herein. Let the Appellate Authority examine the records and if it is found that notice had been served,



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keeping in mind the principles of natural justice, the Appellate Authority may pass necessary orders in accordance with the law. If the Appellate Authority comes to the conclusion that notice had not been served, the Appellate Authority shall complete the enquiry in all aspects and send the matter back to the first respondent. But, at any rate, any order should be passed in the presence of the petitioner and the second respondent.

6. In view of nature of the order passed, this Writ Petition is disposed of without issuing notice to the second respondent. There shall be no order as to costs.

26.04.2023

Index: Yes/No
Internet: Yes/No
ssb

To
The Revenue Divisional Officer,
Madurai.



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C.V. KARTHIKEYAN, J.

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