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W.P.(MD)NO.27900 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.27900 of 2022 and
W.M.P.(MD)Nos.21967 & 21968 of 2022

Natchammal

... Petitioner

Vs.

1. The Tahsildar,
Vedasandur Taluk Office,
Vedasandur, Dindigul District.

2. Krishnamoorthy

... 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 pertaining to the impugned order dated 10.10.2022 issued by the 1st respondent in his proceedings in Na.Ka.No.3719/2021/A4 dated 10.10.2022 on the file of the 1st Respondent and to quash the same as illegal and consequently direct the 1st respondent to conduct fresh enquiry after affording opportunity to all the parties interested.

For Petitioner : Mr.N.Anandakumar



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For R-1 : Mr.G.Suriyananth,
Additional Government Pleader.

For R-2 : Mr.G.Gomathi Shankar

* * *

ORDER

Heard the learned counsel on either side.

2. There is a civil dispute between the writ petitioner on the one hand and the second respondent on the other. The writ petitioner had also filed O.S.No.117 of 2017 before the District Munsif Court, Vendasandur. It appears that the attempt to survey the land was made. The writ petitioner therefore filed W.P.(MD)No.14820 of 2021. The said writ petition was disposed of by this Court on 23.08.2021 in the following terms:-

“5. Subject to the aforesaid observations but without going into the merits of the matter, the first and second respondents herein are directed to consider the petitioner's objections with regard to the conduct of a survey in land bearing S.F.Nos.33/1A, 46, 47 and 62 of



Kollapatti Village, Vedasandur Taluk, Dindigul District and pass a reasoned order thereon after taking into account the pending civil suit, namely, O.S.No.117 of 2017 and other relevant factors. Such reasoned order shall be passed after providing a reasonable opportunity to the petitioner, the fourth respondent herein and any other person who would be affected by such decision. The said reasoned order shall be passed within a period of two (2) months from the date of receipt of a copy of this order. In view of the fact that the merits of the matter have not been gone into and because the first and second respondents have been directed to hear the fourth respondent before taking a decision, the Writ Petition is disposed of without notice to the private respondent."

3. Though Krishnamoorthy was very much a party to the said writ petition, in view of the nature of the order passed by this Court, notice was not issued to Krishnamoorthy.



Krishnamoorthy thereupon independently filed W.P.(MD) No.18962 of 2021. Nachammal was shown as 11th respondent.

However, the following order was passed:-

“ 5.Subject to the above observations, W.P.(MD). No.18962 of 2021 is disposed of by directing the second respondent to consider the petitioner's representation dated 14.08.2021 and dispose of the same by a reasoned order after providing a reasonable opportunity to the petitioner, respondents 6 to 11 herein and the joint pattathar or any other legal heir of such joint pattathar. Such reasoned order shall be issued within a period of three (3) months from the date of receipt of a copy of this order. In view of the fact that the merits of the matter have not been gone into and because the second respondent has been directed to hear the private respondents before taking a decision, the writ petition is disposed of without notice to the private respondents. There will be no order as to costs.”



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4. The grievance of the petitioner is that in order to oblige the second respondent, the impugned order came to be hastily passed. In the operative portion of the impugned order, it has been mentioned that survey has to be conducted based on the order dated 26.10.2021 made in W.P.(MD)No.18962 of 2021. The petitioner has been called upon by this Court to work out her remedy before the jurisdictional civil Court. This Court had disposed of the writ petition filed by the writ petitioner as well as the second respondent in a similar manner. In other words, opportunity was ordered to be given to both the parties and speaking order was asked to be passed by the first respondent. The first respondent has now proceeded on the premise that this Court in W.P.(MD) No.18962 of 2021 directed conducting of survey. It is not so. The order passed by this Court has been misconstrued. In this view of the matter, the order impugned in this writ petition stands quashed. This writ petition stands allowed. The first respondent is directed to adhere to the directions earlier given by this Court in the writ petition filed by the writ petitioner as



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well as the second respondent. No costs. Consequently,
connected miscellaneous petitions are closed.

09.01.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

To:

The Tahsildar,
Vedasandur Taluk Office,
Vedasandur, Dindigul District.



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G.R.SWAMINATHAN,J.

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