



W.A.(MD) No.1252 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2024

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

W.A.(MD) No.1252 of 2020

and

C.M.P.(MD) No.7140 of 2020

Jothi Rani

... Appellant

-vs-

1.M.B.Shankar

2.The District Collector
Madurai District
Madurai

3.The Revenue Divisional Officer
Madurai District
Madurai

4.The Tahsildar
Madurai North Taluk
Madurai

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 11.11.2020, passed in W.P.(MD) No.16088 of 2020, on the file of this Court.



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For Appellant : Mr.S.Selva Adithya
for Mr.G.Prabhu Rajadurai

For Respondents : No appearance for R1
Mr.G.Suriya Ananth
Additional Government Pleader for R2 to R4

J U D G M E N T

[Judgment of the Court was made by RMT.TEEKAA RAMAN, J.]

The checkered history of the case is that the first respondent filed the suit in O.S.No.594 of 1992 against the one Balakrishnan as well as the appellant herein and the said suit was transferred to the file of the Fast Track Court, Madurai and renumbered as O.S.No.45 of 2005. Subsequently, a compromise was arrived at between the parties concerned and a confirmation deed was executed and based upon the same, the said suit came to be dismissed.

2. While the things be so, another suit was filed by the very same first respondent in O.S.No.1207 of 2010, on the file of the Sub Court, Madurai, against the appellant herein and other official respondents and the said suit also came to be dismissed for default.



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3. It is to be stated that in between, there was another suit filed by the very same first respondent filed O.S.No.154 of 1998 and the same also came to be dismissed.

4. The third round of litigation by way of O.S.No.1207 of 2010, which was originally dismissed for default, on application was restored to file. Again, the said suit was dismissed for default.

5. By way of fourth round of litigation, the very same first respondent moved the Revenue Divisional Officer for cancellation of Patta granted in favour of the appellant herein. The Revenue Divisional Officer rejected the application of the first respondent and on appeal, the District Revenue Officer rejected the appeal and the review application was allowed in the year 2010.

6. Subsequently, the first respondent filed a suit in O.S.No.1207 of 2010, on the file of the Sub Court, Madurai, wherein, the first respondent appears to have obtained an *ex parte* decree.



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7. At this juncture, by showing the *ex parte* decree, the first respondent filed the above writ petition seeking a direction to the official respondents to consider his representation for grant of patta.

8. This Court, by order dated 11.11.2020, disposed of the writ petition with a direction to the official respondents to consider the first respondent's representation.

9. It remains to be stated that in the said suit, the person in whose name the title deeds and patta stand, namely, the appellant herein, was not added as a party respondent.

10. Yet another case in W.P.(MD) No.5713 of 2019 was filed by the appellant herein against the first respondent herein and others seeking injunction not to effect mutation of patta without notice to her, wherein interim order appears to have been passed by this Court on 12.03.2019 and the same is still in force.



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11. We find that the first respondent has been in the habit of shooting the litigation on five rounds by filing O.S.No.594 of 1992, O.S.No.154 of 1998, O.S.No.1207 of 2010 and also the revenue proceedings.

12. Since an order has been passed by this Court in the above writ petition without notice to the person, who is holding the title deeds and other revenue records and also when there is an interim order in force granted in favour of the appellant herein by this Court in W.P.(MD) No.5713 of 2019, we have no hesitation to hold that the order dated 11.11.2020, passed in W.P. (MD) No.16088 of 2020, has been obtained by the first respondent herein by suppression of material facts and the same is therefore liable to be vacated.

13. It is now represented by the learned Additional Government Pleader appearing for the respondents 2 to 4 that the suit in O.S.No.1207 of 2010 has also been dismissed for default and hence, the order dated 11.11.2020, passed in W.P.(MD) No.16088 of 2020, has no legs to stand.



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14. Accordingly, this writ appeal is allowed. The order dated 11.11.2020, passed in W.P.(MD) No.16088 of 2020, is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R., J.] [N.S., J.]

11.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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