



CRL.A(MD).No.316 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.09.2024

CORAM

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN  
AND  
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

S.T.A.(MD).No.2 of 2018  
and  
C.M.P.(MD).No.2809 of 2018

S.P.Sha

...Appellant

Vs.

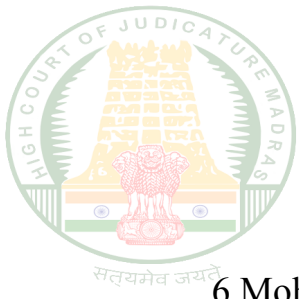
1.Pettalapur Hanabi Jamath Kuthba Tholugai Palli  
Through its President Mohammed Ibrahim,  
S/o.Mohamed Ismail Rowther,  
Middle Street, Pettalapudur and  
Secretary Sheikamaitheen  
Door No.1/40, Pottalputhur,  
Ambasamudram Taluk,  
Tirunelveli District.

2.The District Collector,  
Tirunelveli Office at Kokkirankulam  
Tirunelveli.

3.Ms.Sahil Sha

4.Kadir Sha

5.Faritha



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6.Mohammed Sha Mohaideen Sahul Hameed

7.Fagrudeen Sha

8.Fagrudeen

9.Sabial Beevi (Died)

10.Khaja Mohideen

...Respondents

*(Memo dated 21.08.2023, filed on 22.08.2023 in USR No.28409, is recorded as 9<sup>th</sup> respondent died and the respondents 3 to 8, who are already on record, are recorded as Lrs of the deceased 9<sup>th</sup> respondent vide Court order dated 09.11.2023 made in S.T.A.(MD).No.2 of 2018.*

**PRAYER:-** Special Tribunal Appeal has been filed under Section 46(1) of the Madras Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963, to set aside the Judgment and decree dated 15.02.2017 in R.A.I.a.T.No.1 of 2008 on the file of the Inam Abolition Tribunal (Principal Subordinate Judge), Tirunelveli reversing the order passed by the Assistant Settlement Officer in S.R.No.1/05/Ambai/E/Law 26/63 dated 01.03.2008 and allow the appeal.

For Appellant : Mrs.AL.Ganthimathi Senior Counsel  
for Mr.C.Mahadevan

For Respondents : Mr.S.Vashik Ali for R1  
: Mr.D.Sachi Kumar  
Additional Government Pleader for R2  
: Ms.J.Anandhavalli for R10  
: R3 to R8 Exparte  
: R9 Died



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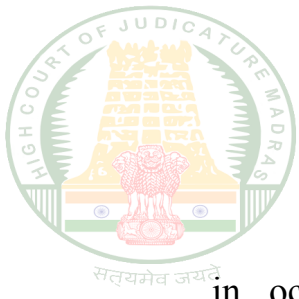
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## **J U D G M E N T**

[Order of the Court was made by **P.VELMURUGAN, J.**]

The respondent filed the appeal against the order passed by the Settlement Officer, for issuance of patta against the appellant and on that account, he was not given opportunity and he was not impleaded as a party in the earlier proceedings pending before the Settlement Officer. Hence, the appellate authority considered the matter that the respondent herein was not a party to the earlier proceedings and without impleading the respondent herein as a party either before the Settlement Officer or in the subsequent proceedings before the appellate authority arising out of that order and subsequently, the settlement officer was directed to issue a patta in favour of the appellant and challenging the said order, the appellant filed the appeal before the appellate authority in RA/AT/2008.

2.The main contention of the learned Senior Counsel for the appellant herein is that the Settlement Officer, based on the occupancy and also the available records in the Settlement Register and the records, finds that except the private occupants, the other respondents' lands are

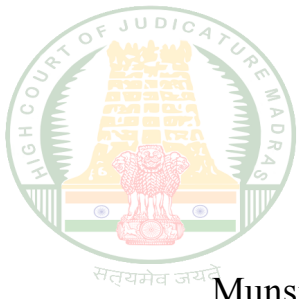


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in occupancy of the appellant and therefore, they were granted patta. But, whereas, the first respondent was not in the possession of the property and he is no way connected with the subject matter of the property and he filed the appeal. The appellate authority failed to consider the facts that the Settlement Officer after going through the entire records and the available materials has passed the order. Further, the appellate authority failed to consider the same and remitted the matter back. Now, the appellant is in possession of the property and the possession has to be protected in the pending proceedings.

3.The learned counsel for the first respondent would submit that earlier, the appellant itself has filed the appeal before the appellate authority, challenging the order passed by the Settlement Officer in 2 of 1993, in which, the appellate authority remitted back the matter to the Settlement Officer and on the very same ground was taken by the appellant in that proceedings that the appellant was not given opportunity and taking advantage of that order, she went to the Settlement Officer and got patta. Earlier, the appellant filed the suit for declaration and injunction in O.S.No.354 of 1995, on the file of the Additional District

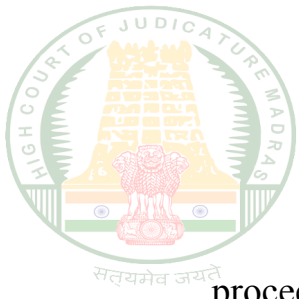


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Munsif, Ambasamuthiram in the year 1995. Subsequently, after getting the patta, the settlement was dismissed as not pressed by filing a memo and obtained only in the pending proceedings. Once, they filed a suit for declaration and she has not proceeded with the suit to prove the title and get decree. However, taking advantage of the order passed by the Settlement Officer, she has not pressed the suit of the earlier proceedings, the respondent is not a party to the proceedings. Therefore, without adding them as a party and without hearing them and behind their back, they obtained order. Therefore, the appellant has challenged the same before the appellate authority. The appellate authority has rightly considered the facts and once again, remanded back the matter to the Settlement Officer and issued patta.

4. Admittedly, the said proceedings is with the Settlement Officer and the Settlement Officer initially granted the patta in favour of the appellant and subsequently, the same was remitted back to the Settlement Officer and subsequent to that, the Settlement Officer granted patta in favour of the appellant excluding the other private persons who are in occupation of the land. However, in all the proceedings and in the earlier



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proceedings, the first respondent was not made a party to the proceedings and therefore, the first respondent aggrieved with the order passed by the Settlement Officer, filed an appeal before the appellate authority in R.T.A.No.1/2008, in which, the appellate authority discussed the entire materials and considered the fact that the order was passed in the absence of the first respondent and the facts remain that Settlement Officer also has not issued notice to the first respondent while passing the earlier order and in the subsequent order also. Therefore, the appellate authority has rightly remanded back the matter and further, the appellate authority considered that the Settlement Officer has also given the finding against the appellant regarding the possession of the land and therefore, aggrieved over the same, the first respondent filed the appeal. The appellate authority considered all the facts and the only remaining fact is the ground of violation of the principle of natural justice, ie., no notice was served to the first respondent and the matter was decided in the absence of the first respondent. Therefore, this Court does not find any perversity in the order passed by the appellate authority and there is no reason to interfere with the order passed by the appellate authority.



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5. Accordingly, this appeal stands dismissed. However, all the parties are at liberty to raise their grounds and defence before the Settlement Officer. The Settlement Officer is directed to proceed with the matter further in accordance with law and decide the matter in the manner known to law, after giving opportunity to all the parties. All the stakeholders/interested parties are to be provided opportunity of hearing. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

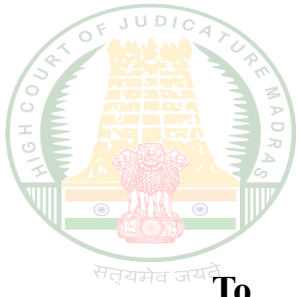
**[P.V.J.] [K.K.R.K.J.]**

**05.09.2024**

NCC : Yes/No

Index : Yes/No

*sbn*



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**To**  
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1. Inam Abolition Tribunal (Principal Subordinate Judge),  
Tirunelveli
2. The District Collector,  
Tirunelveli Office at Kokkirankulam  
Tirunelveli.
3. The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**and**  
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