



W.P(MD)No.19321 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19321 of 2020

and

W.M.P.(MD)Nos.16116, 16117 & 16118 of 2020

J.Shanthi Devi

... Petitioner

Vs.

- 1.The District Collector,
Madurai Collector's Office,
Madurai.
- 2.The District Revenue Officer,
Madurai Collector's Office,
Madurai.
- 3.The Revenue Divisional Officer,
Madurai Collector's Office,
Madurai.
- 4.The Tahsildar,
Madurai South Taluk,
Madurai Collector's Office,
Madurai.
- 5.A.Adhivalavan

... Respondents

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 Na.Ka.No.M1/4498/2020, dated 04.12.2020 on the file of the fourth respondent and quash the same as illegal, ultravires and against the principles of natural justice.



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For Petitioner : Mr.S.Manohar

For Respondents : Mr.T.Villavankothai
Additional Government Pleader for R1 to R4

: Mr.G.Prabhu Rajadurai for R5

ORDER

Heard both sides.

2. Vide order dated 08.10.2018, the DRO, Madurai directed the inclusion of the name of the 5th respondent in the revenue record. Challenging the same, the petitioner herein who is the incumbent pattadhar filed W.P.(MD)No.22117 of 2018. On 30.10.2018 in W.M.P.(MD)No.20055 of 2017, an order of interim stay was granted. During the pendency of the writ petition, the Tahsildar, Madurai South Taluk issued the impugned memorandum dated 04.12.2020 calling upon the petitioner to submit the relevant documents since on account of the expiry of the six months period, interim order stood vacated. Challenging the said memorandum, the Writ Petition came to be filed.

3. The Hon'ble Supreme Court of India in the decision reported in **(2018) 16 SCC 229 (Asian Resurfacing of Road Agency Vs. Central Bureau of Investigation)** held that in all pending cases where stay against the proceedings



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of a civil or criminal trial is operating, the same will come to an end on expiry of six months unless in an exceptional case by a speaking order such stay is extended. It was further directed that in cases, where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by us by a speaking order. It is too obvious that the said direction will apply only in the case of stay of civil or criminal trials. The case on hand will not fall under either category. What was stayed was a final order passed by the revenue authority (DRO). I am surprised that an official holding the rank of Tahsildar had interpreted an order passed by the Hon'ble Supreme Court of India. The conduct of the Tahsildar shocks my conscience. I may incidentally mention that the Hon'ble Supreme Court of India in the decision reported in **(2021) 18 SCC 761 (Fazalullah Khan Vs. M.Akbar contractor)** had clarified that the direction given in a **Asian Resurfacing case** will not apply to the orders passed by the Hon'ble Supreme Court of India. That apart, the correctness of the said decision had been doubted recently and the matter is pending before the Larger Bench and the reference is awaited. The rights of the parties will abide by the outcome of W.P.(MD)No.22117 of 2018.



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4. The impugned memorandum is set aside. The Writ Petition is allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

14.02.2024

Index : Yes / No
Internet : Yes/ No
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