



W.P.(MD) No.3239 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.3239 of 2018
and
W.M.P.(MD) No.3400 of 2018**

T.Chandra Bose

... Petitioner

/vs./

1.The District Collector,
Madurai District,
Madurai.

2.The Special Tahsildar,
Town Survey,
Usilampatti,
Madurai District.

3.Sivaraman

4.The Tamil Evangelical Lutheran Church,
represented by Honourable Judge cum Administrator,
TELC Church Campus,
Door No.19, M.K.Reddy Street,
West Tambaram,
Chennai 600 045.



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WEB COPY 5.P.Jaipaul

6.E.Ammavasi

7.M.Jeyachandran

*(R7 has been impleaded vide
order dated 20.02.2018)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned enquiry notice dated 05/02/2018 in Ni.A.Ma.No.1542/2017 issued by the third respondent holding the office of the second respondent and quash the same.

For Petitioner : Mr.J.Barathan

For R1 to R3 : Mr.D.S.Nedunchezian
Government Advocate

For R4 : Mr.S.Karthikaibalan

ORDER

Questioning the notice for survey issued by the second respondent, the petitioner is before this Court and he seeks to challenge the same on the following grounds:-

i) The rough patta dated 28.01.2015 has been issued by the second respondent, to which there were no objections.



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ii) The objection of the fourth respondent has been received nearly 3 1/2 years after the issue of rough patta.

iii) The impugned notice is for transfer of patta and the second respondent is not the competent authority to transfer the patta, which right vests only with the regular Tahsildar.

iv) The person, who has filed the complaint on behalf of the fourth respondent, is not employed by then.

2. A counter has been filed by the second respondent *inter alia* contending that the writ petition itself was not maintainable, as it is devoid of merits. The petitioner appears to have attended the enquiry and submitted the documents. The petitioner has been issued with a rough patta and a counter claim has also been received and therefore, the enquiry. The competence of the Special Tahsildar, which has been questioned by the petitioner, is not maintainable, inasmuch as where the dispute is with reference to the ownership of any property within the Municipal limits, it is the Special Tahsildar, who is competent authority to conduct the enquiry. Therefore, the respondents had sought for dismissal of the writ petition.



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3. The fourth respondent has not filed any counter.

4. Heard the learned counsel on either side.

5. The above referred objections are the objections, which can be made by the petitioner when attending the enquiry before the Special Tahsildar. Even according to the petitioner, what has been issued to him is only a rough patta, which is subject to correction of Tahsildar.

6. In the light of the above and considering the fact that the petitioner cannot question the enquiry notice, the Writ Petition stands dismissed. The second respondent shall issue notice to the petitioner, the neighbouring land owners as well as the persons, who are claiming right to the property in question, hear the objections and thereafter proceed to pass orders either surveying the property or rejecting the request. In the case of a rejection, a speaking order shall be passed. The aforesaid exercise shall be completed within a period of two months from the date of receipt of a copy of this order.



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No costs. Consequently, connected Miscellaneous Petition is closed.

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

24.09.2024

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P.T.ASHA, J.

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