



W.P.(MD) No.11495 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.11495 of 2017

and

W.M.P(MD)Nos.8853, 8854 and 15127 of 2017

Lincy Shaji

.. Petitioner

Vs.

1.The Commissioner of Land Administration &
Commissioner of Survey and Settlement
Chepauk,
Chennai-600 005.

2.The District Collector,
Madurai District,
Madurai.

3.The Tahsildar,
Madurai South Taluk,
Madurai District.

4.Tmt.Ummahani

5.Aswath

(R5 is impleaded vide Court order dated
07.06.2024 in W.M.P(MD)No.10790/17)

.. Respondents



W.P.(MD) No.11495 of 2017

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for records relating to the impugned proceedings of the 1st respondent in Proc.No.F2/22863/2015 dated 29.03.2017 and quash the same as illegal.

For Petitioner :M/s.K.Jasima Yasmin
for M/s.Ajmal Associates
For R1 to R3 :Mr.P.Thambidurai,
Government Advocate

ORDER

This Writ Petition is filed challenging the impugned proceedings of the first respondent in Proc.No.F2/22863/2015 dated 29.03.2017 and quash the same as illegal.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3.

3.When the matter came up for hearing, it is brought to the notice of this Court that in the connected writ petition in W.P(MD)Nos.8799 and 11231 of 2017, the very same relief was claimed and this Court by order dated 24.06.2022 was pleased to allow the writ petition and quash



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the impugned order and the said order reads as under:

“6. I do not want to go into the factual veracity of this statement. An order of assignment cannot be cancelled for whatever reason after such a long lapse of time. My attention is drawn to the order dated 24.08.2005 made in W.P.No.10277 of 1994. A learned Judge of this Court had held that an order of assignment cannot be set aside after a lapse of three years. This was the position that prevailed then.

7. In any event, an order of assignment cannot be cancelled after a lapse of more than half century. Here, the authority is casting stigma on the assignee namely Kaleemunisa Bibi. The assignee passed away on 02.06.2004. A dead person cannot be stigmatized. If during her life time, the proceedings had been initiated, she probably could have had an appropriate defence to project. It is well settled that the reputation of the dead person is also a valuable right in law. By passing the impugned order, this right has been infringed by the authority.

*8. The second ground on which the impugned order rests is that No Objection Certificate has been obtained from the jurisdictional authority. This ground is also not available. The Hon'ble Division Bench in **W.A.No.1374***



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of 2008 dated 18.08.2010 (T.tirumalai Gounder Vs. State of Tamil Nadu) had held that if the revenue records had been mutated in favour of the purchaser, it can be taken as deemed consent of the authority. The learned senior counsel draws my attention to the fact that patta has been issued in favour of the subsequent purchaser also.

9. The said decision of the Hon'ble Division Bench is squarely applies to the case on hand. The impugned orders are quashed. The writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.”

4.In the light of the above, the impugned proceedings of the first respondent in Proc.No.F2/22863/2015, dated 29.03.2017 is quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

09.09.2024

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



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P.T.ASHA, J.
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