BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.07.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A(MD) No.1823 of 2025
and
C.M.P.(MD)No.10317 of 2025

R.Sardar Batcha ... Appellant / 3rd Respondent

Vs.

1.S.Syed Abuthahir ... 1st Respondent / Writ Petitioner

2.The Commissioner,
Corporation of Madurai,
Aringar Anna Maligai,
Madurai 625 002.

3.The Assistant Commissioner,
Zone-3,
Madurai Corporation Office,
Madurai 625 001. ... 2 & 3Respondents / Respondents 1 &2

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order passed in W.P.(MD)No.9605 of 2023, dated 25.04.2023 on the file of this Court by allowing the writ appeal.

For Appellant : Mr.M.Mohamed Rafi

For Respondents : Mr.R.Karunanidhi
for R1

: Mrs.S.Devasena
for R2

JUDGMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.)**

Heard both sides.

2. One Parveen Banu passed away on 01.11.2012. The writ petitioner Syed Abuthahir was her husband. The appellant herein Sardar Batcha was her father. The parties are Muslims. Therefore, not only the husband but also the parents of the deceased will be considered as legal heirs. The allegation of the appellant is that the husband obtained legal heir certificate as if he is the sole legal heir. When the appellant came to know of the same, the appellant filed O.S.No.17 of 2016 on the file of the 1st Additional District Court, Madurai seeking partition. The suit came to be filed because the petition mentioned property is in the name of Parveen Banu. While so, the appellant filed an application before the corporation authorities for including his name in the property tax

assessment register. There upon, the husband of Parveen Banu filed W.P.(MD)No.9605 of 2023 to forebear the corporation authority from making any mutation in the property tax assessment till the disposal of the partition suit. The learned single Judge felt that the said request was reasonable and equitable and allowed the writ petition vide order dated 25.04.2023 in the following terms:-

> "6.Admittedly, the third respondent himself filed a suit partition which is pending. The property tax assessment has mutated in the name of the petitioner even before the filing of suit. Therefore, it would be in the interest of justice status quo as on date to be maintained in an by which the respondent corporation shall not transfer the property assessment to any other name till the disposal of the suit."

Aggrieved by the same, the father of the deceased has filed this writ appeal.

3. The writ appeal has to be allowed on a short ground. It is well settled that the final relief to be granted in a writ proceedings filed under Article 226 of the Constitution of India cannot be in the nature of interim relief (***AIR 1952 SC 12 (State of Orissa Vs. Madan Gopal Rungta)***). A mere look at the writ petition would show that it is more in

the nature of interim relief. Therefore, the writ petition itself is not maintainable.

4. In this view of the matter, the order of the learned single Judge is set aside. The parties has to work out their rights in the manner known to law. We request the learned 1st Additional District Judge, Madurai to dispose of O.S.No.17 of 2016 as expeditiously as possible. The Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) **(K.R.S., J.)**
08.07.2025

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

To

The 1st Additional District Court, Madurai.

G.R.SWAMINATHAN, J.

AND
K.RAJASEKAR, J.

rmi

W.A(MD) No.1823 of 2025

08.07.2025