BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A(MD)No.1532 of 2022
and
C.M.P(MD)No.12969 of 2022

1.M.Sonaimuthu

2.M.Muthunayagam ... Appellants / Petitioners

Vs.

1.The Assistant Commissioner (Excise),
Madurai District,
Madurai.

2.The District Revenue Officer (DRO),
Madurai District,
Madurai.

3.Anbu Muthusamy

4.The Executive Officer,
Arulmigu Edaganathasamy Temple,
Thiruvedagam,
Madurai North Taluk,
Madurai District. ... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 08.12.2022 in W.P(MD)No.19483 of 2022 and allow the writ appeal as prayed for.

For Appellants : Mr.S.Ramesh

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader
for R.1 & R.2

Mr.V.Nagendran for R.3

Mr.C.Gugaseelarupan for R.4

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.

2.The District Revenue Officer, Madurai issued enquiry notice dated 14.08.2012 calling upon the appellants to attend the enquiry. Challenging the same, the appellants filed W.P(MD)No.19483 of 2013. The writ petition was dismissed by the learned single Judge on 08.12.2022 on the ground that challenge at the stage of notice may not really lie. Questioning the said order, this intra-Court appeal has been filed.

3.It is true that the writ Court would be reluctant to interfere at the show cause notice. But then, if it is demonstrated that notice has been issued without jurisdiction, then the writ Court is obliged to intervene. In this case, the third respondent herein has given some complaint before the District Collector, Madurai on public grievance redressal day. The said application appears to have been forwarded to the Tahsildar, Madurai North. The Tahsildar, Madurai North conducted enquiry and submitted report on 17.12.2012.

4.We fail to understand as to how the report was sent to the Assistant Commissioner (Excise), Madurai. The said authority subsequently sent report dated 02.07.2012 to the District Revenue Officer, Madurai stating that mutation of patta in favour of Muthunayagam Pillai, father of the appellant was improper and that appropriate changes should be made in the revenue record. Based on this communication dated 02.07.2012 sent by the Assistant Commissioner (Excise), Madurai, the impugned notice came to be issued by the District Revenue Officer. We also fail to understand as to how the Assistant Commissioner (Excise), Madurai North could have even intervened in the matter. If according to the third respondent, the entry in the revenue record is improper, appropriate method is either to file a civil suit or file an appeal before the concerned authority. Giving representation and obtaining a finding behind the back of the appellant cannot be endorsed. We are satisfied that the impugned notice was without jurisdiction. It is set aside.

5.This Writ Appeal is allowed. Liberty is granted to the respondents to work out their rights in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [M.J.R., J.]
04.03.2025

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

To

1.The Assistant Commissioner (Excise),
Madurai District,
Madurai.

2.The District Revenue Officer (DRO),
Madurai District,
Madurai.

3.The Executive Officer,
Arulmigu Edaganathasamy Temple,
Thiruvedagam,
Madurai North Taluk,
Madurai District.

G.R.SWAMINATHAN,J.

AND

M.JOTHIRAMAN, J.

MGA

W.A(MD)No.1532 of 2022

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