

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.23495 of 2015
and
M.P.No.1 of 2015

R.Srinivasan

...Petitioner

Vs.

1.The Joint Sub Registrar No.I,
Registration Department,
Ariyalur Taluk and District.

2.A.Padmanaban
3.D.Arjunan
4.Ragupathy

...Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling for the records pertaining to the order of the first respondent made in Objection Petition No.09/2015 dated 22.07.2015 and quash the same as illegal, void, ultravires and forbear the first respondent from entertaining any document for registration at the instance of respondents 2 to 4 or their representatives in respect of punja lands comprised in S.No.5/10A of Wallaja Nagaram Village, Ariyalur Taluk and District until the appeal before Revenue Divisional Officer cum Sub Collector, Ariyalur dated 03.02.2015 filed against order of Tahsildar, Ariyalur dated 23.03.2004 is decided on merits.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.N.Roofus Abraham,
Govt. Advocate for R1

ORDER

The petitioner gave a representation to the first respondent contending that he having filed an appeal against the grant of patta in favour of the respondents 2 to 4 before the Revenue Divisional Officer, the document presented by them shall not be registered. By the order impugned, the said request was rejected on the ground that there is no power or authority lies with the first respondent to do so. Challenging the same, the present writ petition has been filed.

2.It appears that there is a civil dispute between the parties, which culminated in a decree in A.S.No.69 of 1989 on the file of the Sub Court, Ariyalur. Thereafter, an order was passed by the Tahsildar, Ariyalur on 23.03.2014. A writ petition was filed in W.P.No.4926 of 2011 and on 07.03.2012, the following order was passed at the instance of the second respondent herein:

"11.While there can be no doubt about the well settled proposition of law laid down in the aforesaid decision, I cannot lose sight of two things viz., Section 6 of the Tamil Nadu Patta Pass Book Act, 1983 and the fact that the Tahsildar issued patta in favour of the petitioner, after rejecting the third respondent's claim in quasi judicial proceedings under the Act, which also got confirmed by the appeal as well the revisional authority.

12.Therefore, the writ petition is allowed and a direction is issued to the second respondent to restore the original position as per the order dated 23.03.2004. However, this will not prejudice the rights of third respondent to contest the question of title before the civil Court. No costs."

3.Aggrieved against the same, the petitioner filed M.P.No.1 of 2012 in W.A.SR.No.69730 of 2012. The said petition was permitted to be withdrawn by order dated 08.12.2014 on the statement made by the petitioner to the effect that the petitioner would like to challenge the proceedings of the Tahsildar dated 23.03.2014. Thereafter, the petitioner has filed an appeal before the Revenue Divisional Officer.

4.Learned counsel appearing for the petitioner submitted that inasmuch as the petitioner filed an appeal before the Revenue Divisional Officer, the order under challenge will have to be set aside.

5.This court is afraid, the same cannot be countenanced for three reasons. First one is that the first respondent, admittedly, does not have the power or authority to do so as he is not competent to go into the inter se dispute between the petitioner and the respondents 2 to 4. Secondly, registration per se cannot give title. Thirdly, the mere pendency of an appeal instituted by the petitioner against the respondents 2 to 4, which is pending consideration before the Revenue Divisional Officer, cannot be a ground to prevent them from registering the document. Accordingly, the writ petition stands dismissed, however, this order will not stand in the way of the petitioner working out his remedy before the Revenue Divisional Officer. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

mmi

To

The Joint Sub Registrar No.I,
Registration Department,
Ariyalur Taluk and District.

1 CC to Mr.D.Rajagopal, Advocate SR.No. 39526

1 CC to the Government Pleader, SR.No. 39939

W.P.No.23495 of 2015

SV (CO)
PSI (14.08.2015)

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