

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

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

W.P.No.29083 of 2014

R.Ponraj

... Petitioner

Vs.

1. The District Collector,
Kanchipuram District,
Kanchipuram

2. The Tahsildhar,
Kanchipuram District,
Kanchipuram.

3. R.Annamalai

... Respondents

Respondent No.3 has been impleaded as a party
as per order dated 16.2.2015 in M.P.No.1 of 2014
in W.P.No.29083 of 2014 dated 16.2.2015.

Prayer: Petition filed under Article 226 of The
Constitution of India praying to issue a writ of mandamus
directing the 1st and 2nd respondents to cancel patta Nos.422
and 423 and allot a fresh patta to the corresponding extents
allotted to the share of the 3rd respondent and the petitioner
in accordance with the partition deed dated 15.6.1998,
registered as document No.1502 of 1998 on the file of the
Joint Sub Registrar-II, Kanchipuram.
(Prayer amended as per Order dated 16.02.2015 in M.P.2 of 2015
in W.P.No.29083 of 2014)

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.V.Subbiah,
Special Government Pleader
for RR.1 and 2
Mr.T.S.Baskaran for R.3

O R D E R

The petitioner has initially filed writ petition seeking direction to the official respondents to consider the representation dated 21.2.2015, by which the request has been made to change the patta and rectify the measurements in the field map, which according to the petitioner, has been wrongly made. Subsequently, M.P.No.2 of 2014 is filed seeking amendment of the prayer to that of mandamus directing the 1st and 2nd respondents to cancel patta Nos.422 and 423 and allot a fresh patta to the corresponding extents allotted to the share of the 3rd respondent and the petitioner in accordance with the partition deed dated 15.6.1998, registered as document No.1502 of 1998 on the file of the Joint Sub Registrar-II, Kanchipuram.

2. Learned counsel appearing for the petitioner submitted that on the representation of the petitioner, the 1st respondent directed the 2nd respondent to take appropriate action. Despite the same, no action has been forthcoming, Therefore, it is a fit a case for a direction as sought for has to be ordered.

3. Learned counsel appearing for respondent No.3 submitted that the petitioner is trying to reopen an issue, which was concluded a decade back. The 3rd respondent has already filed a suit in O.S.No.232 of 2014 on the file of Sub-Court, Kanchipuram against the petitioner's son as well as the occupier for the relief of recovery of possession and damages, preceded by legal notice dated 27.1.2014. Therefore, no interference is required.

4. The petitioner and the 3rd respondent are brothers. The dispute is stated to have arisen in pursuant to the partition deed. Law is quite settled that any role of a revenue authority is secondary to the decision of the jurisdictional civil Court. Admittedly, the civil suit is pending at the instance of the 3rd respondent in which the petitioner's son is a party. The 3rd respondent has also issued legal notice prior to the filing of the suit as early as 27.1.2014. The representation has been made to the official respondents by the petitioner thereafter. Therefore, this Court is not inclined to consider the prayer as sought for by the petitioner. However, taking note of the pendency of the civil suit, a direction is issued to the learned Subordinate Judge, Kanchipuram to dispose of the suit in O.S.No.232 of 2014 within a period of nine months from the date of receipt

of a copy of this order. It is well open to the petitioner to implead himself as a party defendant in the said suit apart from the fact that his son is already a party. Based upon the judgment and decree to be rendered by the Civil Court it is open to the parties to approach the official respondents for appropriate reliefs.

The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Kanchipuram District,
Kanchipuram
2. The Tahsildhar,
Kanchipuram District,
Kanchipuram.

+1cc to Mr.T.S.Baskaran, Advocate, S.R.No.67547
+1cc to Mr.V.Raghavachari, Advocate, S.R.No.67471
+1cc to the Government Pleader, S.R.No.67592

W.P.No.29083 of 2014

LRS (CO)
CA(28/12/2015)

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