

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.02.2015

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.30980 of 2012

and

M.P.Nos. 1+2/2012

Ibrahim Basha

.. Petitioner

Vs.

1.The Revenue Divisional Officer,  
Peramballur District.

2.The Tahsildar,  
Kunnam Taluk,  
Peramballur District.

3.Mumtaj

.. Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1<sup>st</sup> respondent in proceedings No.Na.Ka.A2/8808/2011 dated 21.06.2012 consequently direct the respondents 1 & 2 to issue patta in favour of the petitioner with respect his property bearing S.No.229/24 Pennakonam village, Konnam Taluk, Peramballur District.

For Petitioner : M/s.N. Subramani

For RR1 & RR2 : Mr. R.Vijayakumar  
Additional Govt. Pleader

For RR3 : Mr. Babu Rangasamy

ORDER

The petitioner in this writ petition has challenged the order passed by the first respondent in Na.Ka.A2/8808/2011 dated 21.06.2012 by which the patta has been granted in favour of the third respondent. The only ground on which the petition has been filed is by contending that the petitioner also has share in the property, he was not given any opportunity and an ex parte order has been passed by the first respondent.

2. On perusal of the impugned order, it is seen that before

passing the impugned order notices were issued to the petitioner's

brother on 15.03.2012, 12.04.2012, 26.4.2012, 30.05.2012 and 07.06.2012 and inspite of the number of notices issued by the first respondent, he has not appeared for enquiry. From the counter affidavit, it is seen that the property is the Joint property of Mohamed Ali and Sultan Mohideen and after their demise, their respective legal heirs came joint owners. The writ petitioner is one of the legal heirs of Late Sultan Mohideen. It is seen that the notices have been issued to the petitioner's brother, namely, Naseer Ahamed, who is the eldest son of Sultan Mohideen and thereafter, only the matter has been proceeded. Therefore, it is not a case of lack of opportunity. But, it is a clear case where the petitioner and their family have failed to avail the opportunity granted. In the above said circumstances, the petitioner cannot be complain that an ex parte order was passed without hearing him. In such circumstances, the petitioner should approach to the appellate/revisional authority. Accordingly, liberty is granted to file a petition before the District Revenue Divisional Officer and raise all contentions.

3. It is seen an interim order of status - quo was ordered by this court Court in the year 2012. In view of the liberty being granted to the petitioner, the status-quo should be continued and to be maintained for a reasonable period of time till the petitioner prefers a petition before the concerned authority.

4. Accordingly, there will be a direction to the petitioner and other legal heirs of late Sultan Mohideen to prefer an appeal/revision before the District Revenue Officer of the concerned District within a period of 60 days from the date of receipt of copy of this order. If such petition is filed, the said authority shall issue notice to the petitioner, the respondents 1 to 3 and all the legal heirs of the Sultan Mohideen, original owner and to pass a reasoned order on merits and in accordance with law. Till such orders are passed by the District Revenue Officer, status - quo granted by this Court, shall be maintained.

With the above observation, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gv

To

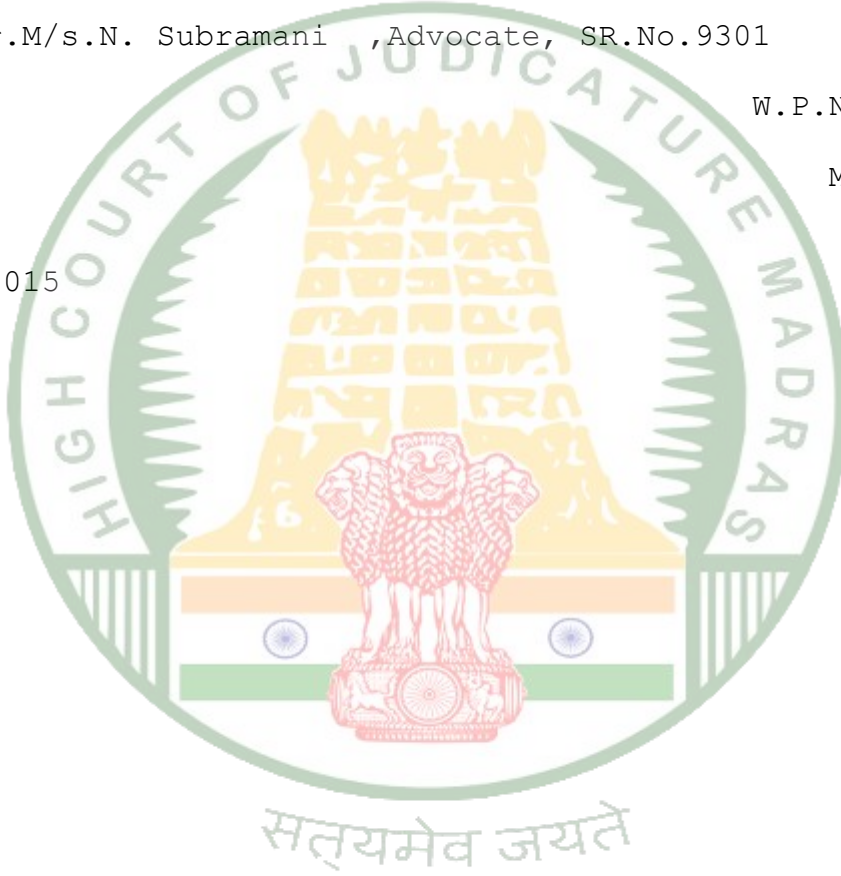
1. The Revenue Divisional Officer,  
Peramballur District.

2.The Tahsildar,  
Kunnam Taluk,  
Peramballur District.

1 cc to Mr.M/s.N. Subramani ,Advocate, SR.No.9301

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