



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Appeal(MD) No.996 of 2015
and MP(MD) No.1 & 2 of 2015

S.Mathivanan

... Appellant/Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Tahsildar,
Taluk Office,
Srivilliputhur,
Virudhunagar District.

3.Eswaran,
Village Administrative Officer,
Kunnur Village and Post,
Srivilliputhur Taluk,
Virudhunagar District.

4.P.Subbiah

5.P.Subramanian

... Respondents/Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 22.04.2014 made in W.P(MD)No.3400 of 2013.

Prayer in WP(MD). 3400/ 2013 :

Petition filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus directing to call for records pertaining to the impugned order dated 08.02.2013 in Na.ka.S/1/215/2012 on the file of the 2nd Respondent herein and quash the same as illegal. consequently directing the 1st Respondent herein to take necessary action against 2 to 5 respondents herein and to cancel the survey date 19.01.2013.

For Appellants	: Mr.S.Karthick
For Respondents 1&2	: Mr.M.Alagadevan, Special Government Pleader
For 3 rd Respondent	: Mr.S.Arun Swaminathan

JUDGMENT



Heard Mr.M.Alagadevan, learned Special Government Pleader for the respondents 1 and 2 and Mr.S.Arun Swaminathan, learned counsel for the third respondent. We dispense with the notice to the private individuals in view of the nature of the order that is to be passed.

2.The appeal is directed against the order of the learned single Judge made in W.P(MD)No.3400 of 2013, dated 22.04.2014.

3.According to the appellant, on 21.01.2013, he gave a petition during grievance day to the District Collector stating that the private respondents 4 and 5 are damaging his property by putting service stones with the influence of the officials. The said petition was forwarded to the Tahsildar who passed an order on 08.02.2013 holding that the request of the appellant was for sub division and to issue patta cannot be considered. Finding fault with the proceedings of the Tahsildar that there was no request to survey or for sub division but his request is only to take action against the respondents 4 and 5 for damaging his properties, the appellant has filed the writ petition.

4.The learned single Judge was of the view that the remedy of the appellant lies only before the appellate authority and hence was not inclined to interfere with the impugned order and dismissed the writ petition. Aggrieved by the same, the writ appeal has been filed.

5.Learned counsel for the third respondent submits that the third respondent is not a necessary party. We record the said submission.

6.No doubt the grievance of the appellant appears to be one of complaint against the private respondents. It is not the case of the appellant that he wanted demarcation or patta for his land. Learned single Judge was of the view that it should be decided before the appellate authority. We find that it is not a case of sub division or grant of patta. Therefore, effectively there can be no statutory appeal. In the case on hand, the Tahsildar has not applied his mind to the nature of the grievance expressed by the appellant and has simply passed the impugned order on the premise that it is a case of resurvey and grant of patta.

7.We are not inclined to interfere with the order passed by the learned single Judge except giving liberty to the appellant to make a statutory complaint before the District Collector who is the head of the revenue authorities to correct the error committed by the Tahsildar as pointed out by the appellant. On receipt of such complaint, the District Collector consider the same on its own merit and in accordance with law.

8.Accordingly, the writ appeal is disposed of. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2015 are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/



sms

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

WEB COPY

2.The Tahsildar,
Taluk Office,
Srivilliputhur,
Virudhunagar District.

+1CC to Mr.S.Karthick Advocate Sr.No.55510

GJM/SKS/RR/12.10.15-3P-4C

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