

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.09.2016

CORAM

The Honourable MR. JUSTICE M.SATHYANARAYANAN

W.P.No.30425 of 2016

S.Sivasamy

... Petitioner

Vs

1 The Revenue Divisional Officer
Ariyalur Division,
Ariyalur District.

2 The Thasildar
Ariyalur Taluk
Ariyalur, Ariyalur District.

3 Thiru. S.Kandasamy ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari calling for the records of the first respondent in Na.Ka.A5/3167/2015 dated 12.08.2016 relating to Survey No.415/15A1,15A2 of Rayampuram Village, Ariyalur Taluk & District.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.A.N.Thamidurai, Spl. GP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The 3rd respondent filed an application before the 1st respondent for transfer of patta by setting aside the order of the Tahsildar, Ariyalur, dated 10.09.2012 in TK.No.8A/189/1422 and vide the impugned proceedings dated 12.08.2016, the 1st respondent has ordered the same and challenging the legality of the said order, the petitioner has come up with the present writ petition.

3 Mr.S.Kamadevan, learned counsel for the petitioner has drawn the attention of this Court to section 10 of the Tamil Nadu Patta Passbook Act, 1983, and would submit that the jurisdiction vest with the Tahsildar to do so and instead, the Appellate Authority has assumed the original jurisdiction and passed the impugned order without due proper application of mind to the materials and hence, prays for interference.

4 Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2 would submit that the petitioner is having an effective alternate remedy under section 13 of the Tamil Nadu Patta Passbook Act, 1983, and it is open to him to raise all plea before the said official and in the availability of the effective alternate remedy, the writ petition is not maintainable.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 A perusal of the impugned order would disclose that the order of the office of the Tahsildar, Ariyalur, dated 10.09.2012 was put to challenge and the 3rd respondent was successful in his endeavour. Though it is vehemently contended by the learned counsel for the petitioner that the 1st respondent has assumed the original jurisdiction and decided the issue, this Court is of the view that in the light of the availability of the effective alternate remedy under section 15 of the Tamil Nadu Patta Passbook Act, 1983, the writ petition is not maintainable.

7 However, the petitioner is at liberty to file a revision before the jurisdictional District Revenue Officer, within the limitation period along with an application for stay and the said official, on receipt of the revision, shall entertain the revision along with the stay petition, if the papers are otherwise in order and to take the stay petition first and after putting the 3rd respondent on notice, give a disposal within a period of two weeks from the date of entertainment of the said stay petition and thereafter, decide the revision as expeditiously as possible. It is also open to the petitioner to raise all grounds including the competency and jurisdiction of the Revenue Divisional Officer, Ariyalur, in deciding the issue in the light of the order dated 12.08.2016. Till the entertainment of the stay petition and the revision petition by the jurisdictional District Revenue Officer, the mutation of entry as ordered by the 1st respondent, shall be kept in abeyance.

8 The writ petition is dismissed with the above observation. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

AP
To

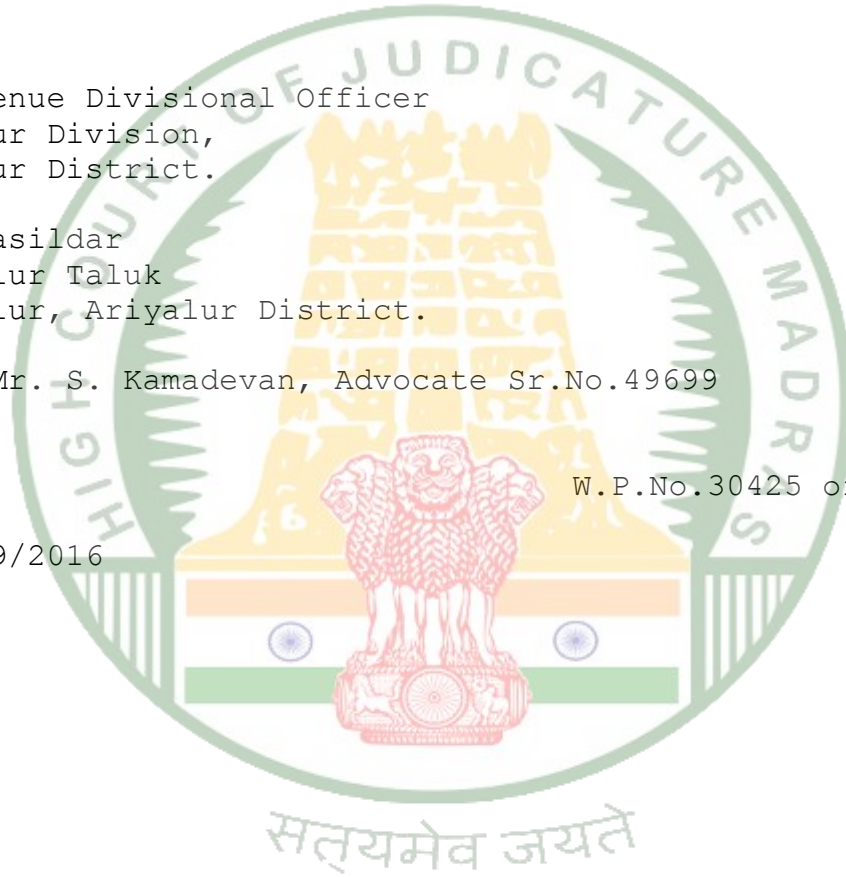
1 The Revenue Divisional Officer
Ariyalur Division,
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2 The Thasildar
Ariyalur Taluk
Ariyalur, Ariyalur District.

+1 CC to Mr. S. Kamadevan, Advocate Sr.No.49699

AD (CO)
MD : 20/09/2016

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