



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2016

CORAM

THE HONOURABLE MR. JUSTICE M.V. MURALIDARAN

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W.P (MD) No. 10997 of 2011

and

M.P. (MD) No. 1 of 2011

T.S. Ramachandra Marthandan

.. Petitioner

Vs

1. The District Revenue Officer,
Tirunelveli.

2. The Appellate Authority-cum-
Sub Collector, Cheranmadevi.

3. Suyamburaj Marthandan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 1st respondent in ref. Na.Ka. (B2) 56/2011 dated 14.07.2011 and quash the same in so far as directing re-enquiry by the 2nd respondent.

For Petitioner : No Appearance

For Respondents : Mr. Aayiram K. Selvakumar (for R1 & R2)
Government Advocate
Mr. D. Nallathambi (for R3)

O R D E R

The petitioner has filed this writ petition for issuance of Writ of Certiorari or any other Writ, or order to call for the records relating to the impugned order of the 1st respondent in ref. Na.Ka (B2) 56/2011 dated 14.07.2011 and quash the same in so far as directing re-enquiry by the 2nd respondent.

2. There was no appearance for the petitioner and heard Mr. Aayiram K. Selvakumar, learned Government Advocate appearing for the respondents 1 and 2 and Mr. D. Nallathambi, learned counsel appearing for the 3rd respondent.

3. The case of the petitioner is that he and his brother Thiru. T.S. Udayachandra Marthandam jointly own some stretch of



property in S.No.65/1 measuring 0.70.0 hectares and 0.73.0 hectares in S.No.65/2 in Kuttam Village, Tirunelveli. The corresponding pattas were issued in Patta numbers 1523 and 194 respectively. The joint patta has been issued by the Thasildar, Radhapuram vide DRT No. 773/88.

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4.It is stated that originally a stretch of property measuring 3.55 acres as a whole was purchased by his grandfather; vide Doc.No.155/1910 and 4024/1919. On partition about 89 cents came to be allotted as the share of the petitioner's father, vide Doc no.3913/1942. Subsequently, about 89 cents and 30 cents were relinquished in favour of the petitioner's father, by the grandfather and the brother of the petitioner in the year 1956 and 1975 vide Doc No.1907/1956 and doc No.152/1975. Totally in S.No.65, the petitioner hold 2.69 acre. It was further submitted by the learned counsel for petitioner that several transactions viz. lease, mortgage was effected in the year 1963,1966,1968 by the petitioner's father during his life time. The UDR patta proceeding and the sub-division was made in the name of the petitioner and all the revenue records stand in the name of the petitioner.

5.It is further stated that in the meanwhile without any documentary evidence and Title Deeds, the 3rd respondent herein made an application praying for issuance of patta for the above said properties before the Tahsildar, Radhapuram. The said application was rejected by the Tahsildar by an order dated 25.10.2005 by holding that neither any documents nor title deed nor any proof of possession produced by the 3rd respondent. Aggrieved over the same appeal was filed before the 2nd respondent herein and the 2nd respondent vide his proceedings in Na.Ka.A1/12947/2008 was pleased to reject the 3rd respondent's application as untenable and was not supported by any document.

6.Aggrieved over the order made in appeal by the 2nd respondent herein, a revision was filed by the 3rd respondent before the 1st respondent. Whereby the 1st respondent vide the impugned order in this Writ Petition, set aside the order made in the appeal and directed the Tasildhar, Radhapuram to conduct a re-enquiry and thereby remanded the matter for fresh consideration. The said order of remand is passed without notice to the petitioner herein and the same is impugned in the Writ Petition.

7.I have gone through the affidavit and the typed set of papers filed in this Writ Petition. It is found at outset that the impugned order is a non-speaking order, setting aside the order of the 2nd respondent and directing the Thasildar, Radhapuram to look



into the issue and conduct re-enquiry provided that if the revision petitioner files any application and document in support of his claim.

8. This court feels that such an order is sheer nonspeaking, passed without application of mind and without appreciation of documents/ revenue records. It is found from the order of the 2nd respondent holding that the claim of the 3rd respondent is untenable, without submission of any documents. It is further found from the order of the 2nd respondent that the order came to be passed only on the basis of the Report and revenue records submitted by Thasildar, Radhapuram. Furthermore, the 3rd respondent despite of sufficient time provided by the 2nd respondent to submit the documents/ records to substantiate his claim, he has not submitted any documents. The 2nd respondent having found that the encumbrance certificate for more than several decades reflect the name of the petitioner and several other transactions over the property was also made by the petitioner's father, has rejected the claim of the petitioner.

9. It is also notable that the 3rd respondent, so as to prolong the matter has also involved misrepresentation of facts before the revenue officials.

10. In the light of the above discussions, this court find that the impugned order is liable to be set aside, since the same is a non-speaking order, as well as the same is passed without notice to the petitioner. Hence the impugned order is set aside and the 1st respondent is directed to dispose of the revision petition on merits and in accordance with law, it is needless to say that after giving due notice to the petitioner and the 3rd respondent as well and the said exercise shall be completed within a period of 12 weeks from the date of receipt of this order.

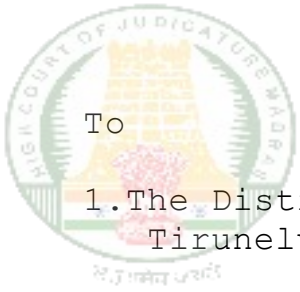
11. This writ petition is disposed of with the above direction. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar



To

1.The District Revenue Officer,
Tirunelveli.

2.The Appellate Authority-cum-
Sub Collector, Cheranmadevi.

+1cc to M/S.D.Nallathambi, Advocate, SR.No.67898

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO. 67943

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and
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VSA/SKN

KK/RSK/SAR3-15.06.2017-4P-5C