



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

Writ Petition (MD) No.18316 of 2013andM.P(MD)Nos.1 and 2 of 2013

V.M.Thangadurai

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Thoothukudi Taluk,
Thoothukudi District.

3.The Taluk Surveyor,
Thoothukudi Taluk,
Thoothukudi District.

4.Ayyankani Ammal

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records in the impugned fresh enquiry notice dated 24.7.2013 and 28.10.2013 issued in R.T.P.No.906/2013 by the 2nd respondent and quash the same and forbear the respondents 2 and 3 from subdividing or partitioning the petitioner property of 7 Acres 22 cents of land in Survey No.44/2 of Servaikaran Madam village of Thoothukudi Taluk and District on the basis of any petition given by the 4th respondent unless she establishes her alleged right before the appropriate civil court or obtain any order to that effect.

For Petitioner

: Mr.C.Dhanaseelan

For Respondents 1-3

: Mr.N.S.Karthikeyan,

Additional Government Pleader

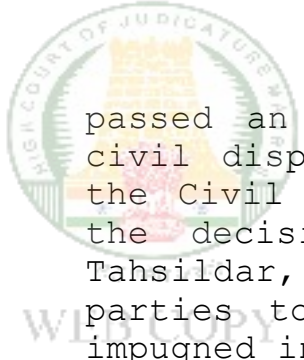
For 4th Respondent

: Mr.S.Muthalraj

ORDER

Challenging the notice issued by the second respondent Tahsildar, directing the parties to appear for an enquiry regarding measuring of land in Survey No.44/2, Servaikaran Madam Village, Thoothukudi Taluk, the present writ petition has been filed.

2.According to the petitioner, on the petition filed by the petitioner as well as the fourth respondent, the Tahsildar,



passed an order dated 16.07.2013 thereby holding that it is a civil dispute between the parties and directed them to approach the Civil Court and thereafter, renew the application based on the decision of the Civil Court. Now, once again the same Tahsildar, issued another notice dated 24.07.2013 asking the parties to appear for the enquiry on the same issue which is impugned in this writ petition.

3.Learned counsel appearing for the petitioner submitted that the Tahsildar has already conducted an enquiry and passed orders on the petition filed by the petitioner as well as the fourth respondent on 16.07.2013, therefore, the second respondent has no power to review his own order in the very same issue.

4.The second respondent has filed a counter affidavit stating that after the order passed by the second respondent, dated 16.07.2013, the fourth respondent has approached the District Collector, on the grievance day and filed a petition which has been forwarded to the Tahsildar with a direction to conduct survey and report the District Collector on 02.09.2013 at 10.00 a.m. Based on said the direction issued by the District Collector, the present impugned notice has been issued.

5.Learned counsel appearing for the fourth respondent submitted that since an earlier order passed by the Tahsildar is not legally sustainable, she submitted representation to the District Collector based on that direction only, the present notice has been issued.

6.Admittedly, the Tahsildar has already considered the petition filed by both the parties and passed an order, thereafter, the Tahsildar, has no power to review his own order either under the Tamil Nadu Patta Pass Book Act, 1983 or under Tamil Nadu Survey and Boundaries Act, 1923. In the above circumstances, the impugned notices issued by the Tahsildar, dated 24.07.2013 and 28.10.2013 are without jurisdiction and the same is set aside. It is always open to the parties to file an appeal before the competent authority, if they feel aggrieved over the order passed by the second respondent on 16.07.2013.

7.The writ petition is accordingly allowed. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2013 are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar



To
1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Thoothukudi Taluk,
Thoothukudi District.

3.The Taluk Surveyor,
Thoothukudi Taluk,
Thoothukudi District.

+One cc to Mr.S.Muthalraj, Advocate, SR.No.66778

+One cc to Mr.C.Dhanaseelan, Advocate, SR.No.66665

+One cc to The Special Government Pleader, SR.No.67061

sms

RL/7C/3P/KM/22.11.2016

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