

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

CORAM

THE HON'BLE Mr. JUSTICE N.KIRUBARAKAN

W.P.No.23342 of 2017

&

W.M.P.No.24439 of 2017

Rani

... Petitioner

Vs

1.The Additional Chief Secretary
and Commissioner of Land Administration,
"Ezhilagam", Chepauk,
Chennai - 600 005.

2.The District Collector,
Tiruvannamalai District.

3.The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.

4.The Revenue Divisional Officer,
Tiruvannamalai District, Tiruvannamalai.

5.The Tahsildar,
Chengam Taluk, Tiruvannamalai District.

6.The Executive Officer,
Selection Grade Town Panchayat,
Chengam, Tiruvannamalai District.

7.T.L.Ramasamy

8.Radha Ammal

9.R.Ravichandran

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus, to call for the records relevant to the order in K3/08179/2017 dated 19.07.2017 passed by the 1st respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the G.O.Ms.No.409 (Revenue SSI (1) Department dated 02.07.2008 and against the principles of natural justice and thereby direct the 5th respondent to issue individual patta in the name of the petitioner in respect of the property situated in S.No.266/5, consist of 0.13 cents of land, S.No.266/6 consist

of 0.06 cents of land, S.No.266/7A1 consist of 0.30 cents of land and S.No.266/7A3 consist of 2½ cents of lands totally to an extent of 51½ cents at Chengam Village, Thiruvannamalai District by subdividing the property survey number in Joint Patta No.797.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.E.Balamurugan (for R1 to R6)
Additional Government Pleader.

O R D E R

The petitioner contends that her father owned some lands comprised in S.No.266/5 to an extent of 0.13 cents, S.No.266/6 to an extent of 0.06 cents, S.No.266/7A1 to an extent of 0.03 cents and S.No.266/7A3 to an extent of 2½ cents, totaling an extent of 51½ cents at Chengam Village, Thiruvannamalai District. The petitioner approached the third respondent/District Revenue Officer for issuance of separate patta and the same was ordered on 31.01.2007. Based on that order, the petitioner filed O.S.No.36/2009 on the file of the District Munsif, Chengam for decree and judgment directing the Tahsildhar to issue a separate patta and for cancellation of patta which stands in the name of her father namely Mr.Perumal. The said suit is pending.

2.Meanwhile, the petitioner approached 5th respondent for surveying the properties by Chengam Taluk Surveyor and sub-divide the land. However, the said request was rejected by the 5th respondent. Against the said order, the petitioner preferred an Appeal before the fourth respondent and the same was also dismissed. Against the order passed by the 4th respondent, the petitioner preferred another appeal before the 3rd respondent and the 3rd respondent issued the order dated 31.01.2007.

3.While so, the respondents 7 to 9 filed a writ petition in W.P.No.705/2010 challenging the order passed by the third respondent viz., District Revenue Officer, dated 31.01.2007 in favour of the petitioner. After contest, the said writ petition was disposed of by this Court directing the petitioners therein, namely respondents 7 to 9 herein to prefer a revision before the Special Commissioner, the 1st respondent herein. Pursuant to the same, a revision was filed before the first respondent by the respondents 7 to 9 which was disposed of by passing the impugned order, whereby the order passed by the D.R.O., on 31.01.2007 was set aside.

4.Heard the learned Counsel for the petitioner who would submit that as per G.O.M.S.No.409, dated 02.07.2008, the second revision is not maintainable before the first respondent and therefore, the impugned order is not liable to

be sustained. However, a close scrutiny of the records would reveal that the number of civil proceedings have been raised between the same parties. Even O.S.No.36/2009 filed by the petitioner is said to have been dismissed by the Civil Court on 05.11.2014 and another suit in O.S.No.27/2015 is pending before the District Court, Thiruvallur. Therefore, when the dispute is pending before the Civil Court, the revenue authorities should wait for judgment of the Civil Court.

5. Another point raised by the learned Counsel for the petitioner is that the first respondent does not have any jurisdiction to decide the matter. If it is so, the petitioner should have raised that point before the first respondent itself. Secondly, the respondents 7 to 9 were directed to file revision before the first respondent by an order dated 23.02.2017 passed in W.P.No.705/2010, in which the petitioner is also shown as 7th respondent. In W.P.No.705/2010, it was stated as follows:

"d) On such further revision being preferred by the writ petitioners, the Special Commissioner shall dispose of the further revision after giving an opportunity to all concerned including personal hearing within a period of three months therefrom."

6. It is clear from the above that this Court only directed the respondents 7 to 9 to prefer a revision before the first respondent and pursuant to that all the respondents had rightly approached the first respondent. Therefore, the jurisdiction issue cannot be raised at this stage. If the petitioner is aggrieved by the order passed by this Court, it is always open to the petitioner to prefer an appeal which is said to have been filed. Further, it is always open to the petitioner to prosecute the appeal as per law.

7. Therefore, the present writ petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sai/tkp

To

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and Commissioner of Land Administration,
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Chengam Taluk, Tiruvannamalai District.

6.The Executive Officer,
Selection Grade Town Panchayat,
Chengam, Tiruvannamalai District.

+lcc to Mr.A.Rajesh Kanna, Advocate, S.R.No.62537
+lcc to the Government Pleader, S.R.No.63400

W.P.No.23342 of 2017

MSM(CO)
GN(27/09/2017)



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