

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.12.2017

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.43581 of 2006

& M.P.No.1 of 2006

1. K.Ayyalusamy

2. S.Mariammal

...Petitioners

Versus

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai -5.

2. The District Revenue Officer,
Virudhunagar.

3. The Revenue Divisional Officer,
Sivakasi.

4. V.Kandasamy

5. V.Subbiah

6. V.Velu

7. V.Thangavelu

... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus to call for the Records of the 1st respondent in Ref.K4/12682/2006, dated 21.07.2006 quash the same and consequently direct the 1st respondent to dispose of the Appeal on merits.

For Petitioners : Mr.A.Sivaji

For RR1 to 3 : Mr.R.S.Selvam, G.A.

RR4 to 7 : Mr.M.Sriram

O R D E R

The petitioner has approached this Court seeking the following relief:

"issue Writ of Certiorarified Mandamus to call for the Records of the 1st respondent in Ref.K4/12682/2006, dated 21.07.2006 quash the same and consequently direct the 1st respondent to dispose of the Appeal on merits."

2. According to the petitioners, they are joint pattadars of lands in S.Nos.94/2A & 95/7B of Uthupatti Village, Sattur Taluk along with one Dakshinamoorthy, and the patta No. is 126. Without any notice to the petitioners, the respondents 4 to 7 herein got their names entered in the Revenue records and claiming joint patta with the petitioners. On coming to know of the change of Revenue entries, the writ petitioners have preferred an appeal before the 3rd respondent-Revenue Divisional Officer, who had rejected the petitioners' appeal on 19.04.2004. Against the rejection of the appeal, a revision was filed before the 2nd respondent and the 2nd respondent also rejected the revision petition by an order dated 22.02.2006.

3. The 2nd respondent's order was served on the petitioners on 07.03.2006. Against the order passed by the 2nd respondent, further revision was filed before the 1st respondent, however, the 2nd revision was dismissed on the ground of delay of 2 days, by an order dated 21.07.2006. The said order is challenged in this writ petition.

4. Upon notice, Mr.R.S.Selvam, learned Government Advocate entered appearance for the respondents 1 to 3 and filed counter affidavit. In paragraph 5 of the counter affidavit, it is stated that the Government has passed an order in G.O.Ms.No.409, Revenue SSI(1) Department, dated 02.07.2008, deleting the provision provided for second revision in Paragraph 31.8(A) of the Revenue Standing orders. The provision which was deleted by the said G.O. is reproduced herein:

"A further revision to the Commissioner of Land Administration can be made within 30 days of receipt of the order and the orders of the Commissioner of Land Administration are final."

5. At this stage, Mr.A.Sivaji, learned counsel for the petitioners submitted that the petition, which was filed before the 1st respondent is not second revision, and it is only the first revision. According to him, the original order was passed by the 3rd respondent, against which, an appeal was filed before the 2nd respondent. As the same was rejected, the petitioners filed first revision before the 1st respondent. Therefore, the said G.O. deleting the second revision cannot be applied in this case.

6. The above said contention was strongly refuted by the learned Government Advocate appearing for the respondents 1 to 3. Original order was passed by the Tahsildar in favour of the respondents 4 to 7 and that there was an appeal before the 3rd respondent and further revision was filed before the 2nd respondent and thereafter, the second revision was filed before

the 1st respondent, which was rejected on the ground of delay of two days. Therefore, the learned Government Advocate for the respondents 1 to 3 submitted that in view of the subsequent development of removing the remedy of second revision before the 1st respondent, no direction can be issued by this Court in this writ petition.

7. This Court is in agreement with the Government Advocate that the prayer sought for in this writ petition cannot be granted in view of the G.O.Ms.No.409, Revenue SSI(1) Department, dated 02.07.2008, which deleted the second revision before the 1st respondent under the Revenue Standing Orders. An attempt was made by the learned counsel for the petitioners that there appears to be some dispute as to whether the proceedings before the 1st respondent was first revision or second revision, and hence he urged this Court to issue a direction to the 1st respondent to decide the issue. However, on the basis of the materials placed on record, it is to be noted that the original order was passed by the Tahsildar, though he was not made as a party in this writ petition. Subsequently, an appeal was filed before the 3rd respondent and thereafter a revision was filed before the second respondent. As per the Revenue Standing Orders, the 2nd respondent is not an appellate authority, only a Revisional authority and therefore, further revision before the 1st respondent is to be considered as second revision. Therefore, the dispute raised by the learned counsel for the petitioners does not have any merit for serious consideration.

8. In view of the subsequent development of deletion of second revision remedy before the 1st respondent, this Court cannot pass an order as prayed for in this writ petition. Therefore, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is always open to the petitioners to work out their remedies in the manner known to law.

सत्यमेव जयते
Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

pvs

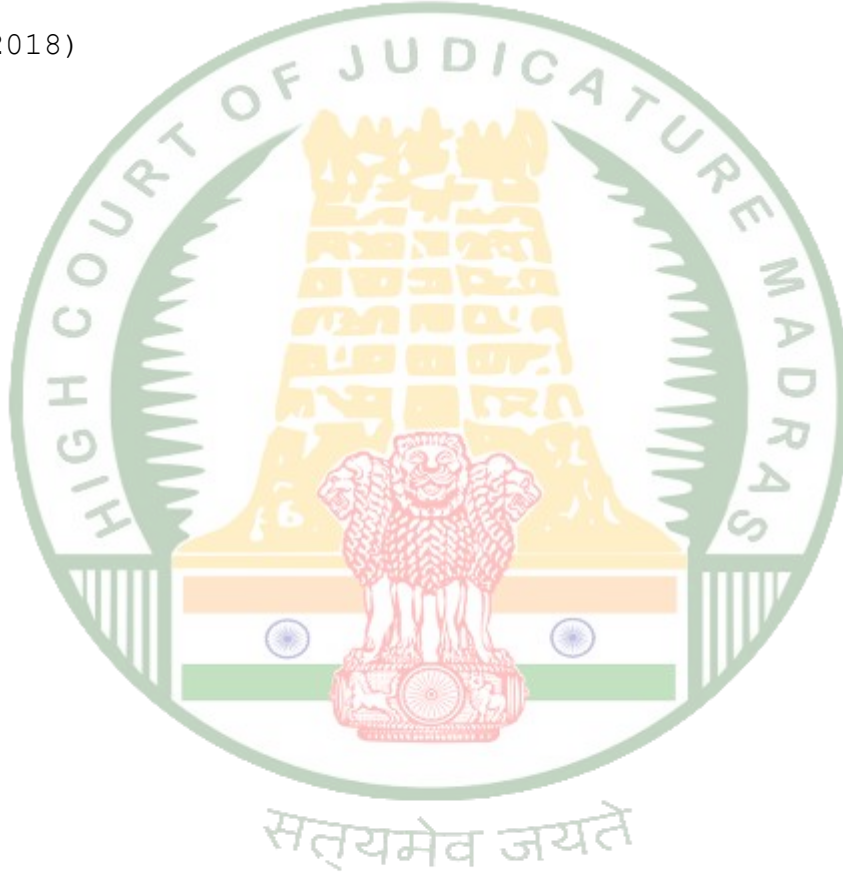
To

1. The Special Commissioner and
Commissioner of Land Administration,
Chepauk, Chennai -5.
2. The District Revenue Officer,
Virudhunagar.
3. The Revenue Divisional Officer,
Sivakasi.

+1cc to Mr.A.SIVAJI, Advocate, S.R.No. 88823

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BR(CO)
TR(12/01/2018)



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