



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P (MD) No.7442 of 2016

and

W.M.P. (MD) Nos.6258 and 11606 of 2016

T.Senthil @ Senthil Kumar

.. Petitioner

Vs

1.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

2.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Tahsildar,
Rameshwaram,
Ramanathapuram District.

4.N.Saravanan

5.N.Rajamani (Late)

6.T.S.M.S. Sadaq Jalal

7.H.Rasim Abdul Kadar

.. Respondents.

(Cause title amended vide Court order
dated 22.04.2016 in WMP (MD) No.
6512 of 2016 by BRJ)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records culminating in the order bearing No.PM(B6)69038/2015 dated 16.03.2016 on the file of the 1st Respondent and quash the same and consequently to direct the 1st Respondent to issue Patta No.5603 to the Petitioner bearing Survey Number 379/6, Rameshwaram Village, Rameshwaram of an extent of 1.75 acres pursuant to the compromise decree dated 22.08.2005 in



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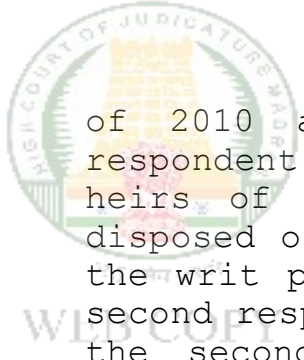
For Petitioner : Mr.A.Srinivasan
For Respondents 1 to 3 : Mr.D.Muruganantham
Additional Government Pleader
For 4th Respondent : No appearance
5th Respondent : Died
For Respondents 6 & 7 : Mr.Rahamathulla
for M/s.Kalaiyarasi Bharathi

ORDER

The petitioner has approached this Court seeking quashment of the order bearing No.PM(B6)69038/2015 dated 16.03.2016 on the file of the 1st Respondent and consequently to direct the 1st Respondent to issue Patta No.5603 to the Petitioner bearing Survey No.379/6, Rameshwaram Village, Rameshwaram of an extent of 1.75 acres pursuant to the compromise decree dated 22.08.2005 in A.S.No.1245/1994.

2.According to the petitioner, a compromise decree was passed in A.S.No.1245 of 1994 by this Court on 22.08.2005, in and by which certain properties were allotted to the petitioner's father. Out of the properties allotted to the petitioner's father, the subject property of the present litigation pertains to Old S.No.379/2 (New S.No.379/6) measuring an extent of 1.75 acres out of 1.35 hectares in Group, Rameshwaram Taluk. According to the petitioner, the third respondent Tahsildar had issued patta in favour of respondents 4 and 5 without reference to the compromise decree dated 22.08.2005 in A.S.No.1245 of 1994. The 7th respondent, who is the power agent of respondents 4 and 5 sold the property in Old S.No.379/2 (New S.No.379/6) measuring an extent of 3 acres and 57 cents situated at Rameshwaram Village, Ramanathapuram District to the 6th respondent vide sale deeds dated 24.09.2007 bearing Doc.Nos.1400 and 1401 of 2007 registered on the file of Sub Registrar, Rameshwaram. Thereafter, patta was transferred in respect of the subject property to the 6th respondent in patta No.3856.

3.In the above circumstances, the petitioner has approached the second respondent Revenue Divisional Officer in respect of the subject property in terms of the compromise decree in A.S.No.1245 of 1994 dated 22.08.2005. In response to the application filed by the petitioner the second respondent issued a joint patta in favour of legal heirs of the petitioner's father along with the 6th respondent. The 6th respondent having aggrieved by the order passed by the second respondent approached this Court in W.P.(MD) No.9467



of 2010 assailing the order dated 25.06.2010 of the second respondent issuing joint patta by including the name of the legal heirs of the petitioner's father. The said writ petition was disposed of on 16.07.2015, in and by which this Court has allowed the writ petition and set aside the impugned order passed by the second respondent dated 25.06.2010 and remanded the matter back to the second respondent for fresh consideration. The petitioner therein was permitted to submit all necessary materials in support of their claim before the second respondent herein and on receipt of the same, the second respondent was directed to consider the claim and to pass appropriate orders, after affording opportunity to all stake holders in the matter.

4. In consideration of the matter, after remand by this Court, the second respondent passed orders on 11.12.2015 stating that only the Civil Courts are competent to redress the grievance of the petitioner herein and other parties. The second respondent herein concluded that there seems to be some disputes as to the validity of the sale deeds executed in favour of the 6th respondent herein and also regarding the validity of the property allotted to the petitioner's father, which dispute can be resolved only in the Civil Court and not before the Revenue Court. The order further directed that in case the parties are aggrieved they can approach the first respondent with a review petition.

5. The 6th respondent herein filed a review petition before the first respondent herein. The first respondent after affording opportunity to the parties, including the petitioner herein, has passed order dated 16.03.2016, which is impugned in the writ petition, holding that the dispute between the parties cannot be resolved by the Revenue Court, but only the Civil Court will have to be approached for redressal of grievance of the review petitioner therein and the writ petitioner herein. While concluding thus, the first respondent has also held that since the original proceedings of the Revenue Divisional Officer dated 25.06.2010, granting joint patta in favour of the petitioner herein and the 6th respondent was set aside by the order of this Court dated 16.07.2015 in W.P.(MD) No.9467 of 2010, the patta originally granted in favour of the 6th respondent by the 3rd respondent herein shall stand restored till the parties sort out their grievance before the competent civil Court. The said order is assailed before this Court in this Writ Petition.

6. Heard learned counsels V.Perumal and Mr.A.Srinivasan for the petitioner, Mr.D.Muruganantham, the learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.Rahamathullah, the learned counsel appearing for respondents 6 and 7.

<https://hcservices.ecourts.gov.in/Services>
 7. Mr.A.Srinivasan, the learned counsel appearing for the petitioner would strongly urge that the order passed by the 1st and 2nd respondents dated 16.03.2016 and 11.12.2015 respectively cannot



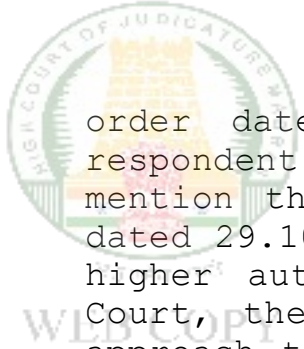
be sustained in law since there were no consideration of the claim of the petitioner in proper perspective. According to Mr.A.Srinivasan, the learned counsel for the petitioner, this Court in W.P.(MD) No.9467 of 2010 dated 16.07.2015 has only remanded the matter back to the authority for fresh consideration and the second respondent in its order dated 11.12.2015 has passed orders against his own earlier order dated 25.06.2010 and therefore, the same is liable to be interfered with. He further contended that the first respondent having concluded that it is only the Civil Court which has a proper jurisdiction in deciding the issue as between the parties in the writ petition, he ought not to have directed the second respondent to restore the patta granted in favour of the 6th respondent originally. In view of the said submissions, the learned counsel appearing for the petitioner would pray for setting aside the impugned order passed by the first respondent herein.

8.Per contra, the learned counsel appearing for the 6th respondent would contend that admittedly the original order passed by the second respondent herein dated 25.06.2010 has been set aside by this Court and the same was not even put under challenge and therefore it was within the power of the second respondent to pass orders as he deems fit and proper. The learned counsel also would further contend that in case the petitioner was not in agreement with the order passed by the second respondent herein he ought to have filed appeal before the first respondent. In the circumstances, the 6th respondent, who approached the first respondent by way of review. The first respondent, who is a revisional authority has finally held that the matter could be resolved only before the Civil Court and in the interregnum the patta granted by the second respondent in favour of the 6th respondent in 2007 was rightly directed to be restored since the said proceedings of the second respondent has not been interfered or not set aside by any Court. In view of the said submission, he would strongly prays for dismissal of the writ petition.

9.Mr.D.Murugananthan, the learned Additional Government Pleader would represent that the order passed by the first respondent is on the basis of the records available and in any event it is open to the parties to resolve the dispute before the competent civil Court and the impugned order passed by the first respondent is not required to be interfered.

10.I have considered the rival submissions of the parties and perused the materials and pleadings on record.

11.It is seen that as early as on 29.10.2007 patta was issued in favour of the 6th respondent. Though the same was followed by the second respondent in 2007, the said proceedings has been set aside by this Court at the instance of the 6th respondent in W.P.(MD) No.9467 of 2010 vide



order dated 16.07.2015. Once the order passed by the second respondent has been set aside by this Court, it is needless to mention that the original order passed by the second respondent dated 29.10.2007 get revived, unless the same is overturned by the higher authorities. In the instant case, after remand by this Court, the second respondent herein has directed the parties to approach the Civil Court to sort out the dispute as according to him the dispute clearly falls within the domain of the Civil Court and not before the revenue authorities. The 6th respondent chosen to file revision petition before the first respondent and the first respondent by the impugned proceedings dated 16.03.2016 has confirmed the order passed by the second respondent. While so, directed the restoration of the patta granted in favour of the 6th respondent by the second respondent vide proceedings dated 29.10.2007. Such a direction pending adjudication of the dispute before the competent civil Court cannot be faulted at all.

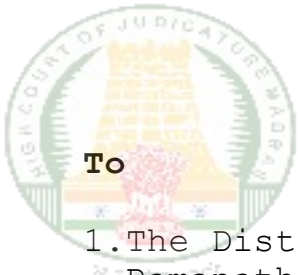
12.The arguments put forth by the learned counsel appearing for the petitioner that this Court has merely directed the second respondent to pass orders after fresh consideration and therefore, it was not within the power of the second respondent to change his own order cannot be accepted both in law and on facts. Admittedly, the original order passed by the second respondent herein on 25.06.2010 has been set aside by this Court on 16.07.2015 in W.P. (MD) No.9467 of 2010. Therefore, it was well within the power of the second respondent to pass fresh order whichever he deems it fit. In any event, the petitioner herein has not approached the first respondent by way of revision or appeal and in any event the right of the petitioner does not suffer any prejudice he can always move the competent civil Court for adjudication of his claim against the 6th respondent and other stakeholders.

13.In view of the above narrative, I am of the considered view that the challenge made to the impugned proceedings of the first respondent dated 16.03.2016 has to necessarily fail and therefore, the Writ Petition is devoid of merits and the same is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

2.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Tahsildar,
Rameshwaram,
Ramanathapuram District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 52063
+ 1 CC TO M/s.KALAIYARASI, ADVOCATE IN SR No. 51982
+ 1 CC TO Mr.V.PERUMAL, ADVOCATE IN SR No. 51846

SJ

TE/MMS : 09/05/2017 : 6P/7C

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W.M.P.(MD) Nos.6258 and 11606 of 2016
12.04.2017