

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7370 of 2014

And

M.P.Nos.1 of 2014 & 1 of 2015

L.Dharmarajan

.. Petitioner

Vs.

1.The District Revenue Officer,
Thiruvallur - 602 001.

2.The Revenue Divisional Officer,
Ambattur,
Chennai - 600 053.

3.The Tahsildhar,
Ambattur,
Chennai - 600 053.

4.The Commissioner,
Avadi Municipality,
Avadi,
Chennai - 600 054.

5.T.G.Srinivasan

6.T.S.Ethirajan

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records of the first respondent dated 17.12.2013 in Ref.No.Na.Ka.23865/B-3 and quash the same.

For Petitioner :: Mr.V.Ramesh

For R1 to R3 :: Mrs.A.Srijayanthi
Special Government Pleader

For R5 & R6 :: Mr.Niranjan Rajagopalan

For R4 :: No appearance

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O R D E R

The order of the first respondent dated 17.12.2013 is under challenged in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the immovable property in question has been used by the public as a public road and even as per the records, it is established that it is a common path way for the usage of public in general. However, the first respondent, District Revenue Officer issued an order in favour of the fifth and sixth respondents stating that the property belongs to the fifth and sixth respondents and it is a patta land belongs to private persons and the same cannot be construed as a common path way. Aggrieved by the order passed by the first respondent, the writ petitioner, who is the resident of the locality filed the present writ petition stating that people residing in that locality are using the property in question as a public path way.

3.The learned counsel appearing for the fifth and sixth respondents contends that based on the revenue records available, the first respondent passed an order holding that the land in question is a patta land and belongs to the fifth and sixth respondents. Further, it is stated that it is not a road at all. Thus, the writ petition is liable to be rejected.

4.This Court is of an opinion that in respect of the usage of the property in question is a public road. There is a counter claim by the residents of the particular locality. When, there is a counter claim in respect of the usage of a particular property as a public road, it is for the aggrieved persons to move the Competent Civil Court for redressal of their grievances. Title, ownership or possession can never be decided in a writ proceedings and the parties aggrieved have to approach the Competent Civil Court of law in this regard.

5.In respect of the order passed by the first respondent, this Court is of an opinion that Section 3 of the Patta Pass Book Act, unambiguously enumerates that the patta proceedings can be initiated and the patta pass book can be granted only for the owners. Thus, there should not be any dispute in respect of the ownership, title or possession. In all other cases, of counter claim or a dispute in respect of the title, ownership, the respective parties have to approach the Competent Civil Court of law for adjudication and to resolve the disputes in respect of the title and ownership. The Revenue officials under the Patta Pass Book Act are incompetent to decide the title or ownership, under the Patta Pass Book Act or

Revenue standing orders. These officials only in the event of establishing clear ownership, empowered to issue patta and not otherwise.

6. Thus, this Court is of an opinion that there is a counter claim by the respondents, in respect of the usage of the particular property as a public road. Thus, either of the parties is at liberty to approach the Competent Civil Court of law for deciding the title or otherwise, regarding the property in question. However, it is contended that the order of the first respondent if made to operate the same will affect the rights of all other persons, who are residing in that particular locality. Thus, the Status quo as on today is to be maintained by all the parties concerned. This apart, the order of the first respondent is impugned in this writ petition in Ref.No.Na.Ka.23865/B-3 dated 17.12.2013 is kept in abeyance till the respective parties get an appropriate relief including the interim order before the Competent Civil Court.

7. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

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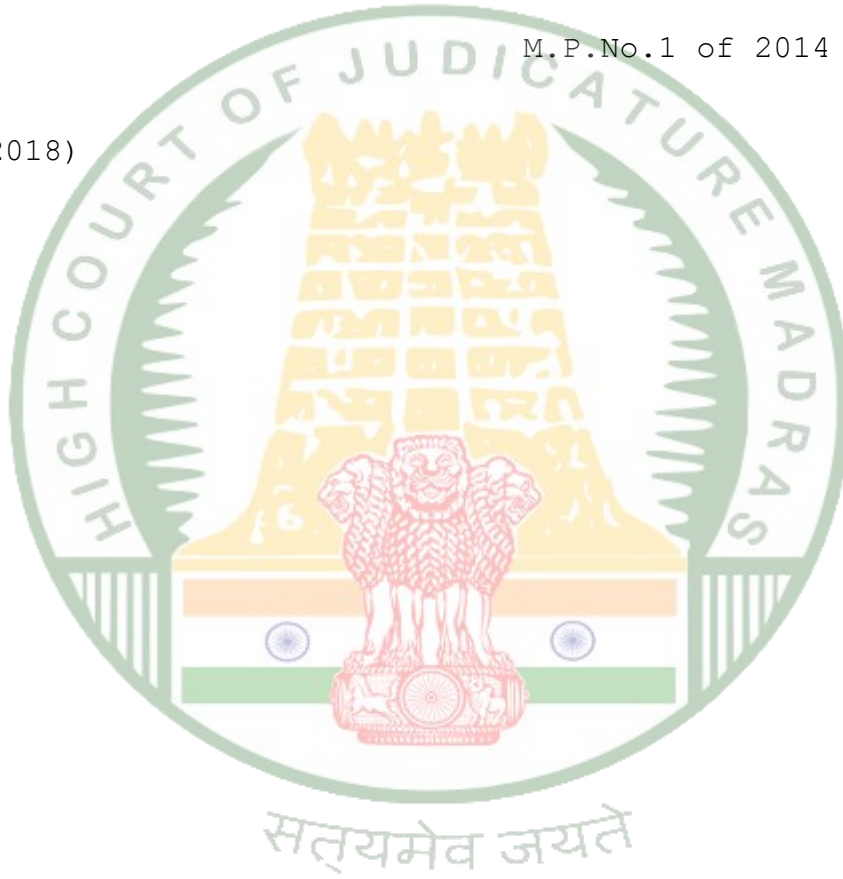
+1cc to Mr.GR.ASSOCIATES, Advocate, S.R.No.39218
+1cc to Mr.V.RAMESH, Advocate, S.R.No.39381
+1cc to the Government Pleader, S.R.No.39557

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BS (CO)
TR(24/07/2018)



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