

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	18/04/2018
Delivered on	07/06/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P.No.6893 of 2013

T.R.Ravichandran

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Coonoor, The Nilgiris District.

2.The Tahsildar,
Udhagamandalam Taluk,
The Nilgiris District.

3.Mr.P.Krishnamoorthy,
Udhagamandalam Taluk,
The Nilgiris District.

4.The Joint Sub Registrar-I,
Joint SRO-I, Udhagamandalam,
The Nilgiris District.

5.Smt.Sivagamasundari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari and Mandamus, to call for the entire records relating to the impugned order passed by the second respondent in sub division made in Na.Ka.Pa.MMA.II.1513 of 2010, dated 27.02.2013, quash the same and consequently direct the first respondent to depute some other officer in the rank of Tahsildar, to hold a fresh enquiry in accordance with law in respect of the sub division of the lands comprised in Town Survey No.E/6/110 of Udahagai Town, The Nilgiris District.

For Petitioner : Mr.K.Premkumar

For Respondents : Mr.V.Shanmugasundar

Special Government Pleader for R1, R2 & R4

Mr.T.R.Rajagopalan, Senior Counsel

For Mr.N.Sampath for R5

No appearance for R3

O R D E R

This Writ Petition has been filed challenging the order of Sub Division passed by the second respondent dated 27.02.2013 and for a direction to the first respondent to depute some other Officer in the rank of Tahsildar to hold a fresh enquiry.

2. The case of the petitioner is that the lands comprised in R.S.No.3910 now T.S.No.E6/110 in Udthagamandalam Town, Nilgiris District, measuring 0.04 2/16 acres was originally belonged to his grandfather Kailasam Pillai by virtue of a registered sale deed dated 31.05.1944. In a family partition, the land was allotted to the petitioner and the fifth respondent has no right or title over the property. The second respondent based on his application ordered sub division of the property on 20.12.2006. The order of the second respondent was challenged by the fifth respondent in an Appeal before the first respondent. The first respondent, by his proceedings dated 14.09.2008 cancelled the sub division. Aggrieved over the same, the petitioner preferred a revision before the District Revenue Officer, Udthagamandalam.

3. According to the petitioner, the District Revenue Officer partly allowed the revision and remanded the matter back to the second respondent for fresh enquiry. The petitioner would allege that the fifth respondent, who claims to have purchased the property in question in the year 1983, but started interfering with his possession only on 07.06.2007 and 30.06.2007 and hence, he filed a suit in O.S.No.190 of 2008 before the District Munsif Court, Udthagamandalam, seeking permanent injunction. In the meanwhile, the fifth respondent submitted a letter to the second respondent requesting for sub division and suppressing the pendency of the suit, filed a Writ Petition in W.P.No.13420 of 2011 for issuance of Writ of Mandamus, directing the respondents to dispose of her representation dated 27.04.2011.

4. The Writ Petition was allowed on 10.06.2011, directing the second respondent to pass orders within a period of twelve weeks. Since the order was obtained behind the back of the petitioner, he filed a Writ Appeal in W.A.No.1554 of 2011 and the same was disposed of on 16.11.2012.

5. The grievance of the petitioner is that second respondent without following the order of the Division Bench and DRO had sub divided the property.

6. In the counter filed by the fifth respondent, it is stated that the property bearing R.S.No.3909 and R.S.No.3910, New T.S.No.E6/100 and E6/110 in Udagai Town was originally owned by one Abibabai. She sold the property in favour of one Madanlal and Sampath Raj by a registered sale deed dated 14.09.1983 registered as Document No.721 of 1983. They in turn sold the property to one Krishnakumar by a registered sale deed dated 26.03.1984. The fifth respondent became the owner of the property through the Will executed by the said Krishnakumar registered as Document No.113 of 2001, dated 09.03.2001. Patta

was also issued in favour of the said Krishnakumar and in the name of the fifth respondent and as such, she is in possession and enjoyment of the property.

7. The fifth respondent has further stated that she being a lady residing at Coimbatore and the property in dispute is situated in Udhagamandalam. The writ petitioner, while he was working as a Tahsildar in Udhagamandalam, made an application to himself to cancel the patta stands in the name of the fifth respondent and some other persons in respect of R.S.Nos.3909 and 3910. The said application was taken on file by himself and passed an order dated 20.12.2006 cancelling the patta stands in the name of the fifth respondent and other person and transferred patta in his name by his own order. Aggrieved over the order, the fifth respondent preferred an appeal and the Revenue Divisional Officer by his proceedings dated 14.09.2008, cancelled the order passed by the writ petitioner in his proceedings dated 20.12.2006. The District Revenue Officer, Udhagamandalam in the revision filed by the writ petitioner confirmed the order of the Revenue Divisional Officer dated 18.08.2010 and issued directions to the second respondent to conduct fresh enquiry and to sub divide the fields in S.No.E6/110.

8. In the counter, the fifth respondent has further stated that she gave a representation dated 27.04.2011 to the second respondent to implement the order of the District Revenue Officer and thereafter filed the Writ Petition in W.P.No.13420 of 2011. This Court had issued directions to the Tahsildar, Udhagamandalam to consider the representation of the petitioner within a period of twelve weeks by an order dated 10.06.2011. The Writ Appeal in W.A.No.1554 of 2011 was disposed and the petitioner was directed to participate in the sub division proceedings on the date fixed by the Tahsildar. After the disposal of the Writ Appeal, the Tahsildar, Udhagamandalam issued notice to the petitioner as well as to the fifth respondent, fixing the enquiry on 06.02.2013, but the petitioner did not produce relevant records or title deeds before the Tahsildar on 06.02.2013 and sought postponement of the enquiry to some other day. On the request of the petitioner, the enquiry was adjourned to 23.02.2013 informing that no further time will be granted. It is further stated that on 23.02.2013, the petitioner neither produced any records, but instead of cooperating with the enquiry, prevented the officials from sub dividing the property. Therefore, the Sub Inspector of Survey, Udhagamandalam preferred a complaint against the petitioner before the G-1 Police Station, Udhagamandalam and thereafter, the order of sub division was passed. The petitioner deliberately and wantonly avoided to participate in the enquiry and disobeyed the order passed in W.A.No.1554 of 2011, which

amounts to Contempt of Court and prayed for dismissal of the Writ Petition.

9. The second respondent has filed a separate counter in the same line of the counter filed by the fifth respondent.

10. Heard Mr.K.Premkumar, learned counsel for the petitioner; Mr.V.Shanmugasundar, learned Special Government Pleader for the respondents 1, 2 and 4; Mr.T.R.Rajagopalan, learned Senior Counsel, representing Mr.N.Sampath, learned counsel for the fifth respondent and perused the records.

11. The main grievance of the petitioner is that no opportunity was afforded in the sub division proceedings and the directions issued by the District Revenue Officer have not been obeyed by the second respondent.

12. It is seen from the records that the suit instituted by the petitioner in O.S.No.190 of 2008 before the District Munsif Court, Udhagamandalam against the fifth respondent for permanent injunction was dismissed by a judgment and decree dated 05.11.2012 and in A.S.No.1 of 2013, the Sub Court, Udhagamandalam, reversed the finding of the trial Court. It is further seen that this Court has allowed the Second Appeal No.744 of 2013 filed by the fifth respondent, on 07.07.2014 and dismissed the suit.

13. It is not in dispute that when the writ petitioner was working as a Tahsildar in Udhagamandalam, he made an application to sub divide the property in T.S.No.E6/110 and without notice to the fifth respondent, the petitioner himself passed an order of sub division. The order of sub division passed by the petitioner was set aside by the first respondent, Revenue Divisional Officer, which was confirmed by the District Revenue Officer. A further direction was issued to the second respondent to sub divide the property by following the procedure. The Division Bench of this Court in W.A.No.1554 of 2011, while dismissing the appeal preferred by the petitioner directed him to participate in the sub division proceeding on the date fixed by the second respondent.

14. Indisputably, the second respondent had fixed enquiry on 06.02.2013 to complete enquiry in a time frame to obey the direction of this Court in W.P.No.13420 of 2011 and on the request of the petitioner, the enquiry was adjourned to 23.02.2013 . Though the petitioner had contended that the order was passed without affording him an opportunity and in violation of principles of natural justice, but the fact remains despite receipt of notice and having knowledge about the order of this Court, he did not cooperate and no explanation was given for his non cooperation in the enquiry proceedings conducted on 06.02.2013 and on 23.02.2013.

15. A perusal of the order passed by the first respondent reveals that the petitioner did not appear for the enquiry proceedings fixed on 09.06.2008, 27.06.2008 and on 14.08.2008 and he has not submitted any document in support of his case. Further, this Writ Petition was dismissed for non prosecution on 07.11.2013. This shows the conduct and the attitude of the petitioner. So, the contention of the petitioner that the order was passed in violation of the principles of natural justice and against the order passed by the District Revenue Officer, have been rejected.

16. Considering the above facts, I am satisfied that the second respondent has passed the order of sub division in accordance with law, warranting no interference of this Court. In fine, the Writ Petition fails and the same is dismissed. There is no order as to costs.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

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To

- 1.The Revenue Divisional Officer,
Coonoor, The Nilgiris District.
- 2.The Tahsildar,
Udhagamandalam Taluk,
The Nilgiris District.
- 3.The Joint Sub Registrar-I,
Joint SRO-I, Udhagamandalam,
The Nilgiris District.

+1cc to Mr.N.Sampath, Advocate SR.No.35715
+1cc to Mr.K.Premkumar, Advocate SR.No.35448
+1cc to Government Pleader SR.No.35831

W.P.No.6893 of 2013

GN(13/06/2018)