

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :27.06.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.25100 of 2013

R.Ramakrishnan

.. Petitioner

vs

1.The District Revenue Officer,
Collectorate Building,
Erode-638 011, Erode District.

2.The Revenue Divisional Officer,
Gobichettipalayam, Erode District.

3.K.S.Kakuth Kaarthikeyan
4.C.s.Sainathan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus dated 21.03.2013 forbearing the 1st respondent from deciding the appeal in Na.Ka.No.3933/2013/U2 filed at the instance of the 3rd respondent on merits until deciding the locus standi of the 3rd respondent who is a stranger to the subject matter property to file an appeal dated 04.02.2013 made in Na.Ka.9818/2012/A2 and consequently direct the 1st respondent to conduct a preliminary enquiry on petitioner's objection dated 16.05.2013 and Memo dated 30.05.2013.

For Petitioner : Mr.Manokaran

For Respondents 1&2 : Mr.D.Raghul
Government Advocate

For Respondents 3 & 4 : Mr.E.P.Senniyangiri

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O R D E R

The relief sought for in this writ petition is to forbear the 1st respondent from deciding the appeal in Na.Ka.No.3933/2013/U2 filed at the instance of the 3rd respondent on merits until deciding the locus standi of the 3rd respondent who is a stranger to the subject matter property to file an appeal dated 04.02.2013 made in Na.Ka.9818/2012/A2 and consequently direct the 1st respondent to conduct a preliminary

enquiry on petitioner's objection dated 16.05.2013 and Memo dated 30.05.2013.

2.The learned counsel appearing on behalf of the petitioner made a submission that the writ petitioner has purchased the partitioned property from the brother of the 4th respondent. Thus, the writ petitioner is the absolute owner of the property in respect of the portion purchased by him. In respect of certain disputes aroused on account of the sub division of the partitioned property. R3 and R4 jointly preferred an appeal before the Revenue Divisional Officer, Gobichettipalayam, Erode District and the appeal was dismissed. However, the further appeal before the District Revenue Officer, Erode has been filed only by the 3rd respondent.

3.The learned counsel for the petitioner states that the 4th respondent has not preferred any appeal, and the 3rd respondent alone has preferred an appeal before the 1st respondent.

4.The learned counsel appearing for the 3rd and 4th respondents contend that the 4th respondent is aged more than 90 years and he authorized the 3rd respondent to prefer an appeal on his behalf. However, now the appeal preferred by the 3rd respondent is pending before the 1st respondent. The main objection raised by the writ petitioner is that the appeal filed by the 3rd respondent is not maintainable, in view of the fact he has no locus Standi. In spite of the preliminary objections filed by the writ petitioner in this regard, the first respondent is proceeded with the appeal for adjudication.

5.This Court is of an opinion that the preliminary objection submitted by the writ petitioner also is to be considered along with the appeal. The maintainability, locus standi or the merits of the contentions or the grounds raised by the respective parties are to be considered by the first respondent, while conducting an enquiry and pass a reasonable order on merits in accordance with law.

6.The first respondent is exercising the quasi Judicial function and therefore, the decision is to be taken by affording opportunity to all the parties concerned. This being the principles to be followed, this Court is of an opinion that the present writ petition need not be entertained and the writ petitioner is at liberty to adjudicate the preliminary objections as well as the main grounds before the first respondent and the first respondent on hearing all the parties shall decide the matter on merits and in accordance with law.

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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

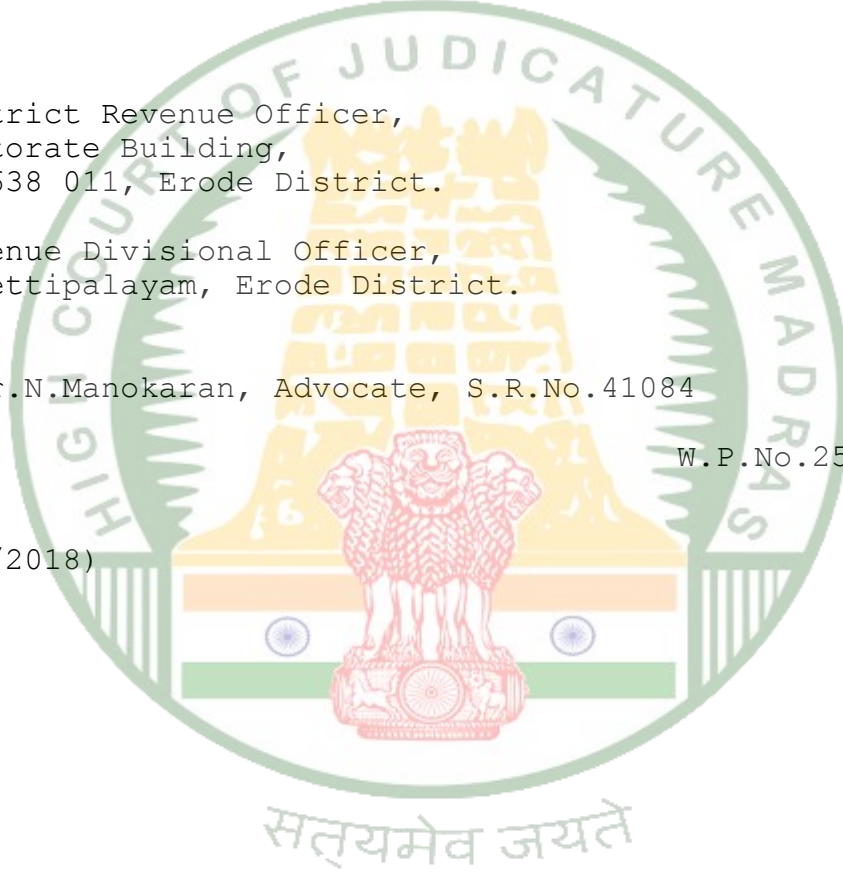
1.The District Revenue Officer,
Collectorate Building,
Erode-638 011, Erode District.

2.The Revenue Divisional Officer,
Gobichettipalayam, Erode District.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.41084

W.P.No.25100 of 2013

GMR(CO)
GSP(07/08/2018)



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