

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.41274 of 2016

and

WMP.No.35248 of 2016

T.P.Palanisamy

..Petitioner

VS

1.The Tahsildhar,
Tiruchengode Taluk,
Namakkal District.

2.T.P.Dhamodharan

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 1st respondent herein passed in Na.Ka.No.15592/2016(A4), dated 31.10.2016 and quash the same and consequently direct the 1st respondent herein to alter the patta No.1800 issued in favour of the 2nd respondent herein and issue a fresh patta for the 2nd respondent herein only for 2.58 acres of land instead of 2.64 acres of land.

For Petitioner

: M/s.G.Karthikeyan

For R 1

: M/s.A. Sri Jayanthi,

For R2

Special Government Pleader
: M/s.Thenmozhi Shiva PerumalORDER

The order passed by the first respondent / Tahsildar in proceedings dated 31.10.2016 is under challenge in this writ petition. Further direction is sought for to alter the patta No.1800 issued in favour of the second respondent and issue a fresh patta for the second respondent herein only for 2.58 acres of land instead of 2.64 acres of land.

2. The learned counsel appearing on behalf of the writ petitioner made a submission that both the writ petitioner and the second respondent agreed in terms with regard to the land measuring 2.58 acres. Therefore, there is no dispute between the parties and consequently, the Tahsildar has no reason to pass any such adverse order. This apart, the Tahsildar himself has taken a measurement and in spite of that, he has passed a contrary order.

3. This court is of an opinion that such civil dispute in respect of metes and bounds of immovable property cannot be adjudicated in a writ petition under Article 226 of the Constitution of India. In the event of any such civil dispute, the parties aggrieved have to approach the competent civil court of

law. Mere agreement between the parties will not constitute a cause of action for moving a writ petition and get a consent order. High Court can never be a party for such orders and it is left open to the aggrieved persons to approach the competent authorities and the civil court of law in respect of the measurement of the land or metes and bounds of immovable properties concerned.

4. Such adjudication requires detailed investigation and this Court under Article 226 of the Constitution of India cannot exercise powers for examination of such original documents. This apart, under the Tamil Nadu Patta Passbook Act, 1983, there is a provision for appeal. The order passed by the Tahsildar is under challenge in the present writ petition. Section 12 of the Act provides appeal to higher authority. Admittedly, the writ petitioner has not filed appeal before the competent authority under the provisions of the Act.

5. This being the factum, this Court is of an opinion that the present writ petition cannot be maintained and the writ petitioner has to approach the competent authority under the provisions of the Patta Passbook Act, 1983. Thus, the writ petitioner is at liberty to approach the competent authority by filing an appropriate appeal setting out all the facts and details.

6. In the event of filing any such appeal, the competent authority has to consider the same in accordance with the provisions of the Act and Rules.

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

12.06.2018

lok

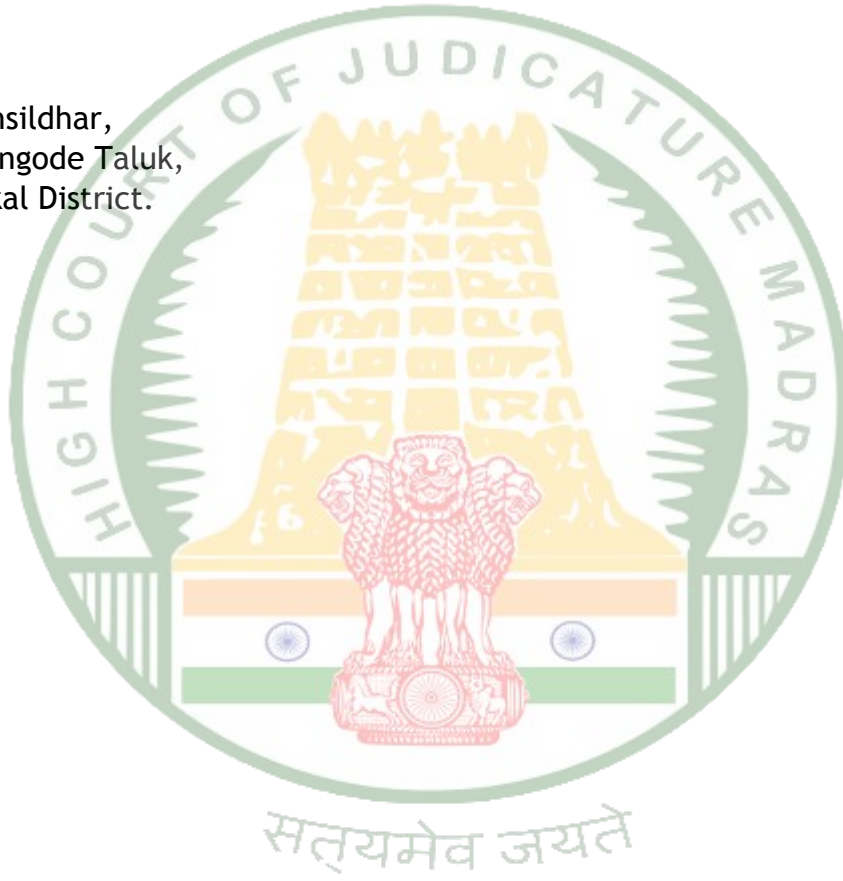
Index : Yes
Internet:Yes
Speaking



WEB COPY

To

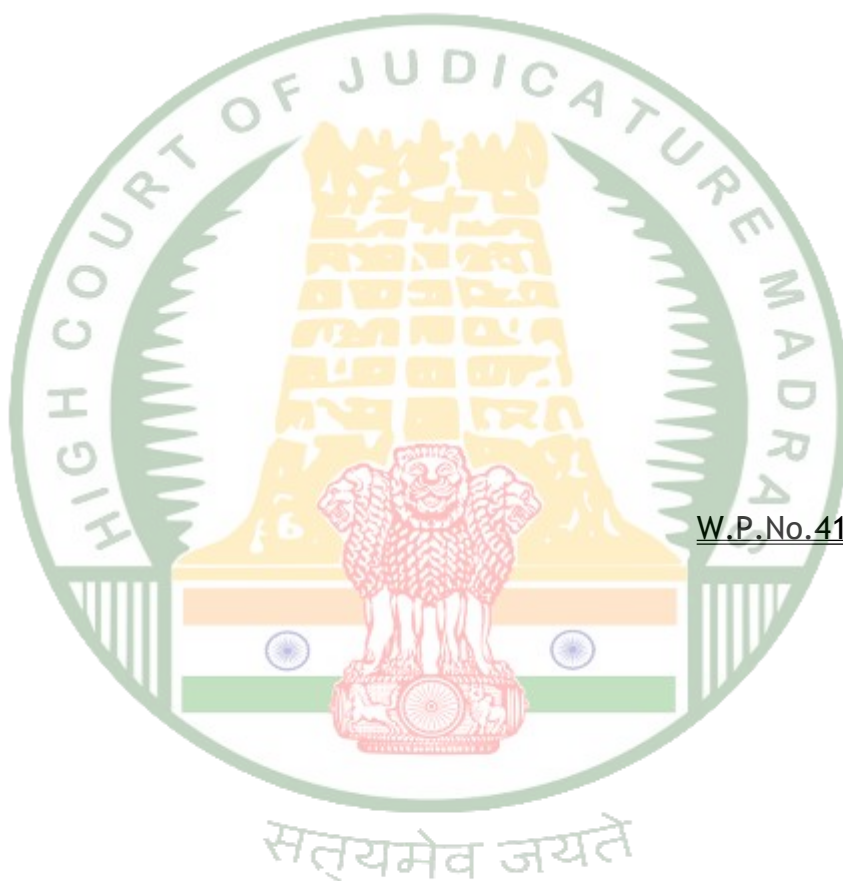
The Tahsildhar,
Tiruchengode Taluk,
Namakkal District.



WEB COPY

S.M.SUBRAMANIAM, J.

stm/lok



W.P.No.41274 of 2016

WEB COPY

12.06.2018