



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.2381 of 2018

and

WMP (MD) No.2597 of 2018

S.M.Noor Mohammed

... Petitioner

Vs.

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

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

3. The Tahsildar,
Ramanathapuram District,
Ramanathapuram.

4.Mohammed Khan

5.Marjan Beevi

6.Thaibha

7.Syed Najimunisha

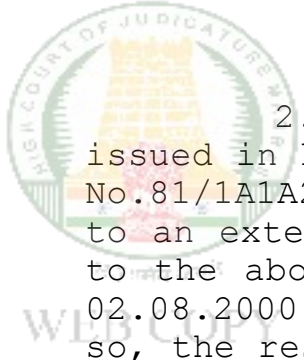
... Respondents

Petition filed under Article 226 Constitution of India to issue a writ of Certiorari calling for the records relating to the petition in Na.ka.No.A6/7740/2016 with impugned notice dated 23.12.2016 issued by the second respondent and quash the same.

For Petitioner : Mr.J.Barathan

For R1 to R3 : Mrs.J.Padmavathi Devi
Special Government Pleader**ORDER**

Challenging an enquiry notice issued by the Revenue Divisional Officer, the second respondent herein, on the appeal filed by the respondents 4 to 7 against the order passed by the Revenue Divisional Officer, the third respondent herein, this writ petition has been filed.



2. According to the petitioner, earlier a patta has been issued in his favour in respect of the property situated in Survey No.81/1A1A2B1, Athankarai Village, Ranamathapuram Taluk, measuring to an extent of 2 acres 78 cents. The petitioner claims ownership to the above extent by way of a registered settlement deed dated 02.08.2000 executed by his father-in-law viz., Abubakkar. While so, the respondents 4 to 7 said to have filed an appeal before the second respondent seeking to issue joint patta in their favour on the ground that the petitioner's father-in-law is only having 1 acre 31 cents out of 2 acres 78 cents but erroneously patta has been granted in respect of the entire extent of 2 acres 78 cents. Based on the appeal filed by the respondents 4 to 7, the second respondent issued enquiry notice to the petitioner. Challenging the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the respondents 4 to 7 did not challenge the order passed by the Tahsildar and they want to include their names in the patta already issued in favour of the petitioner. Hence, the respondents 4 to 7 have to approach the third respondent seeking necessary modification and they cannot maintain the appeal. Apart from that since the respondents 4 to 7 did not challenge the order passed by the Tahsildar, they cannot maintain appeal under Section 12 of the Tamil Nadu Patta Passbook Act, 1986. When there is already a dispute between the petitioner and respondents 4 to 7, as per Rule 4(4) of the Tamil Nadu Patta Passbook Rules, 1987, the issue has to be decided only by the competent civil Court and the revenue authorities cannot decide the same.

4. I have heard the submissions made by the learned counsel appearing for the petitioner and perused the entire records carefully.

5. First of all, the order impugned is only a notice for enquiry issued to the petitioner on the appeal filed by the respondents 4 to 7 against the patta issued in favour of the petitioner and to include their names as joint pattadars. Now, the contention of the learned counsel for the petitioner is that the respondents 4 to 7 only sought for modification to include their names in the patta already issued in favour of the petitioner, for which, application under Section 10 of the said Act is alone maintainable before the Tahsildar.

6. From the perusal of the ground of appeal filed by the respondents 4 to 7, it could be seen that, the settlor of the petitioner namely Abubakkar is having title only for an extent of 1 acre 31 cents, whereas, he has executed settlement deed in respect of 2 acres 78 cents, for which, he has no right. In the above circumstances, they sought to include their names and want to set aside the patta issued to the petitioner to the entire extent. In the above circumstances, it cannot be contended that

the respondents 4 to 7 did not challenge the order in fact the respondents 4 to 7 only challenged the order granting patta to the petitioner to the entire extent.

7. So far as the applicability of Rule 4(4) of the Tamil Nadu Patta Passbook Rules, 1987 is concerned, it is for the authority to decide in the appeal whether the dispute could be resolved by the Civil Court or not. If at all, the petitioner has any objection, it is always open to him to appear before the appellate authority and submit his objection and he cannot challenge the enquiry notice.

8. In view of the discussion made earlier, this writ petition is dismissed. No costs. Consequently, WMP(MD) No. 2597 of 2018 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.
2. The Revenue Divisional Officer,
Ramanathapuram District,
Ramanathapuram.
3. The Tahsildar,
Ramanathapuram District,
Ramanathapuram.

+ 1 cc TO Mr. T.R. Jeyapalam, Advocate in SR No. 46843
+ 1 cc TO The Special Government Pleader in SR No. 46933

mj

AE/KK/SAR3/27.02.2018/3P/6C

WP (MD) No. 2381 of 2018
06.02.2018