



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM:

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.19249 of 2018

and

W.M.P. (MD) Nos.17086 and 17087 of 2018

Lurdhu Mary

...Petitioner

Vs.

1.The District Revenue Officer,
O/o District Revenue Officer,
Sivagangai District.

2.The Revenue Divisional Officer,
O/o Revenue Divisional Officer,
Revenue Department,
Devakottai,
Sivagangai District.

3.The Tahsildar,
O/o Tahsildar,
Devakottai Taluk,
Sivagangai District.

4.Susi Rathinam

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari calling for the records relating to the impugned order passed by the first respondent in proceeding Na.Ka.Pe 1/3810/10(R.P.6/10), dated 28.07.2018 confirming the order of the second respondent in Muu.Mu.A1-1161-09, dated 15.12.09 and to quash the same as illegal.

For Petitioner : Mr.P.Balamurugan

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader
for R.1 to R.3

**ORDER**

The case of the petitioner is that the property in S.No.124/10 to an extent of 0.11.50 Hectares (29 cents), Keela Uchani Village, Orumaniyendhal Group, Devakottai Taluk, Sivagangai District belongs to the petitioner's father and his father has been in possession of the same from 1946. The father of the petitioner, on 30.08.1976, executed a settlement deed in favour of the petitioner vide document No.1346/1976. Thereafter the petitioner is in absolute enjoyment and possession of the property in Survey No.124/10 and has been doing agricultural activity in the said property. According to the petitioner, the third respondent also issued patta in favour of the petitioner bearing Patta No.1419. While so, the petitioner's father died in 1988 leaving behind three legal heirs viz., the petitioner and two brothers. A suit was also filed for partition among the siblings in O.S.No.119 of 1995, on the file of the District Munsif Court, Tiruvadanai. But the same was dismissed on 23.04.1994. Thereafter the petitioner filed an appeal in A.S.No.18 of 1997 before the Subordinate Court, Ramanathapuram and the same was also dismissed. Therefore, the petitioner is constrained to file a second appeal in S.A.No.2044 of 1999 before this Court and the same is still pending.

2. While the matter stood thus, the fourth respondent appears to have sent a representation to the third respondent on 04.07.2018 seeking to cancel the patta issued in favour of the petitioner. Thereafter, an enquiry was made, in which the petitioner participated and submitted all the relevant documents. The second respondent, on consideration of the materials in respect of the survey number which is under occupation of the petitioner, cancelled the patta granted in favour of the petitioner by his proceedings dated 15.12.2009. Thereafter the petitioner preferred a revision petition, dated 22.01.2010, before the first respondent and the first respondent by his proceedings dated 28.07.2018 confirming the order passed by the second respondent cancelling the patta granted in favour of the petitioner issued by the third respondent. The said proceedings of the first respondent dated 28.07.2018 is put to challenge in the present writ petition.

3. The learned Counsel appearing for the petitioner would submit that despite the pendency of the second appeal in regard to the subject property, the second and first respondents have gone ahead and conducted an enquiry at the instance of the fourth respondent and cancelled the patta granted to the petitioner and therefore, he is aggrieved by the orders passed by the second and first respondents and therefore he is before this Court seeking to challenge the adverse orders issued by the second and first respondents against him.



4. From the materials and pleadings disclosed in the affidavit filed in support of the writ petition, it appears that there is a civil dispute in regard to the ownership of the property in question between the petitioner and the fourth respondent and in regard to the same, a second appeal is also pending before this Court. Moreover, from the orders passed by the second and first respondents, it could be seen that the authorities have examined various documents filed in support of the rival claims made by the petitioner and the fourth respondent and had come to the conclusion on certain factual basis.

5. Since the writ petition is filed against the orders passed by the second and first respondents and which would involve adjudication of factual disputes in regard to the ownership of the survey number in question, the same cannot be done in a writ jurisdiction of this Court. In case the petitioner is aggrieved by the orders passed by the second and first respondents, it is always open to him to obtain some orders in the pending second appeal or he can approach the competent civil Court in regard to the enforcement of his claim as against the fourth respondent.

6. In view of the above position, this Court is of the considered view that the writ petition as it is not maintainable and therefore, the same is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

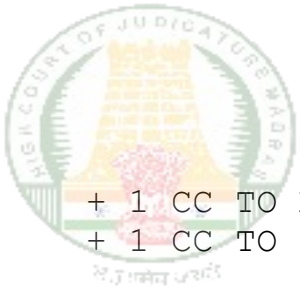
Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS-I)

To

- 1.The District Revenue Officer,
O/o District Revenue Officer,
Sivagangai District.
- 2.The Revenue Divisional Officer,
O/o Revenue Divisional Officer,
Revenue Department,
Devakottai, Sivagangai District.
- 3.The Tahsildar,
O/o Tahsildar,
Devakottai Taluk, Sivagangai District.



+ 1 CC TO MR.P.BALAMURUGAN, ADVOCATE IN SR NO.82553
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO.82822

SSL

BU/SKN/SAR-I : 01.10.2018 : 4P/6C

W.P. (MD) No.19249 of 2018
05.09.2018