

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15440 of 2014

C. Ganesan Udayar

... Petitioner

Vs.

1. The District Collector
Villupuram District,
Villupuram.

2. The Revenue Divisional Officer,
Tirukoilur Taluk,
Villupuram District.

3. G. Kadhivel Udayar

4. B. Thandavarayan

5. P. Chandrasekaran

6. C. Tamizhselvi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuing a Writ of Mandamus directing the 2nd respondent to consider petitioner's application dated 02.05.2012 in Appeal No.3084/2012 within time frame and direct to cancel the Patta No.563 against the 3 to 5th respondent and to give patta in the name of petitioner in R.S. No.33/15, 0.05.5 Ares (0.13 Cents) situated at Memalur Village, Tirukoilur Taluk, Villupuram District.

For Petitioner : Mr.H. Rajesh

For Respondents : Mr.B.Anand

Government Advocate for RR1 and 2

Mr.A. Arumugam for RR3 and 4

Mr.C.V.Kumar for RR5 and 6

ORDER

According to the petitioner, originally the patta in respect of the property stood in the name of the petitioner. Subsequently, without any notice to the petitioner, the said patta was changed in the name of fifth respondent under the (Updated Register) UDR. The petitioner therefore submitted an appeal to the second respondent in appeal No.3084/2012 seeking to cancel UDR No.563 granted in favour of respondents 3 to 5 and the same is pending. Since the second respondent did not take up the appeal filed by the petitioner, the petitioner has come up with this writ petition for issuing a direction to the second respondent to dispose of the appeal preferred by him within a time to be stipulated by this Court.

2. Mr. A. Arugumam, learned counsel appearing for the respondents 3 & 4 would strongly object for granting a direction to the second respondent to dispose of the appeal, inasmuch as the second respondent is not competent to decide the appeal preferred by the petitioner. If the petitioner is aggrieved by the order cancelling the patta stood in his name, he has to prefer an appeal before the District Revenue Officer, who alone is competent to take up such appeal and therefore the appeal filed by the petitioner cannot be entertained by the second respondent.

3. The learned counsel appearing for the 5 and 6th respondents would submit that in respect of the very same issue, the 5th and 6th respondents have filed a suit for declaration and permanent injunction against the petitioner and the respondents 3 to 4 and also the other parties before the Principal District Court, Tirukoilur seeking declaration and permanent injunction against the petitioner and the respondents 3 & 4 and the same is pending. Therefore, if any decision is taken in the appeal preferred by the petitioner before the second respondent, it would prejudice the right of the 5th and 6th respondents.

4. Heard the learned counsel on either side. It is evident that the petitioner has filed an appeal before the second respondent as against the order cancelling the patta issued in his name. According to the counsel for the respondents 3 and 4, the second respondent is not competent to entertain the appeal and he has no jurisdiction to deal with the appeal. Be that as it may, an appeal has been preferred by the petitioner before the second respondent and it is pending. If it is not maintainable, as contended, it is for the second respondent to decide the same. Further, the fifth and sixth respondents have also filed a suit before the Civil Court in connection with the very same subject matter of the property. Therefore, without going into the rival contentions urged on behalf of the parties,

this Court hereby direct the second respondent to take up the appeal preferred by the petitioner, afford an opportunity of hearing to the petitioner as well as others concerned and to pass orders on merits and in accordance with law as expeditiously as possible within 12 weeks from the date of receipt of a copy of this order. It is made clear that if any decision is taken by the second respondent, it would be without prejudice to the rights of the parties to the suit before the Civil Court. Accordingly, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

vsi2

To

1. The District Collector
Villupuram District,
Villupuram.
2. The Revenue Divisional Officer,
Tirukoilur Taluk,
Villupuram District.

+1cc to Mr.A.Arumugam, Advocate SR.No.19874

+1cc to Mr.CV./kumar, Advocate SR.No.19895

+1cc to Mr.H.Rajesh, Advocate SR.No.20401

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SSI (CO)

GMV (20/05/2019)

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