

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2019

Coram:

THE HONORABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.28614 of 2019

and

W.M.P.No.28367 of 2019

T.Sangeetha

.. Petitioner

/versus/

1. The Revenue Tahsildar,
Taluk Office,
Perundurai.

2. The Land Revenue Inspector,
Perundurai.

3. R.Srinivasan

4. K.Thangaraj

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the proceedings dated 19.09.2019 in Na.Ka.No.4225/2019/A9 on the file of the 1st respondent and quash the same.

For Petitioner :Mr.E.Girirajan

For Respondents :Mr.S.Suresh Kumar, GA
for R1 and R2

O R D E R

Heard Mr.E.Girirajan, learned counsel appearing for the petitioner and Mr.S.Suresh Kumar, learned Government Advocate, who takes notice for respondents 1 and 2.

2. The prayer in the writ petition is to issue a Writ of Certiorari calling for the proceedings dated 19.09.2019 in

Na.Ka.No.4225/2019/A9 on the file of the 1st respondent and quash the same.

3. The petitioner herein challenges the proceedings of the Revenue Tahsildar issued on the request made by respondents 3 and 4 to get the possession of 3.73 acres of land which they have purchased from their vendor Ravi @ Palanisamy.

4. The case of the petitioner herein is that when there is a suit in O.S.No.115 of 2018 filed by respondents 3 and 4 for partition pending before the District Court, Erode in respect of the property and no final order been passed in that suit, the Revenue Tahsildar has no authority to recover the possession from the petitioner and hand over to the respondents 3 and 4.

5. The perusal of the order impugned in this writ petition indicates that the Revenue Tahsildar has considered the documents produced by the parties during the enquiry and taken note of the pendency of the civil suit filed by the petitioner in O.S.No.101/2019, but not the partition suit filed by the respondents. Thereafter, in view of the cultivating season and distribution of water under LBP Canal Scheme, to facilitate the land owners to carry on the agricultural activities, the Revenue Tahsildar has ordered recovery of 3.73 acres of land and hand over it to respondents 3 and 4.

6. According to the petitioner, when the partition suit filed by the respondents not reached finality and their right not ascertained recovery of possession should not been passed by the Revenue Tahsildar, which amounts to usurpation of power of the Civil Court.

7. The first respondent has considered the complaint after hearing both sides and passed the impugned order.

8. While considering the rival submission, the Revenue Tahsildar has conscious omitted to consider the pending of partition suit. If the proceedings of the Revenue Tahsildar dated 19.09.2019 is an interim arrangement, in view of the pending partition suit, he should have stated so. Hence, this Court finds error in the order passed by the Revenue Tahsildar. Hence, the said order is quashed. The first respondent is directed to conduct fresh enquiry and pass appropriate order, taking note of the civil suits pending between the parties,

within 8 weeks from the date of receipt of a copy of the order.

9. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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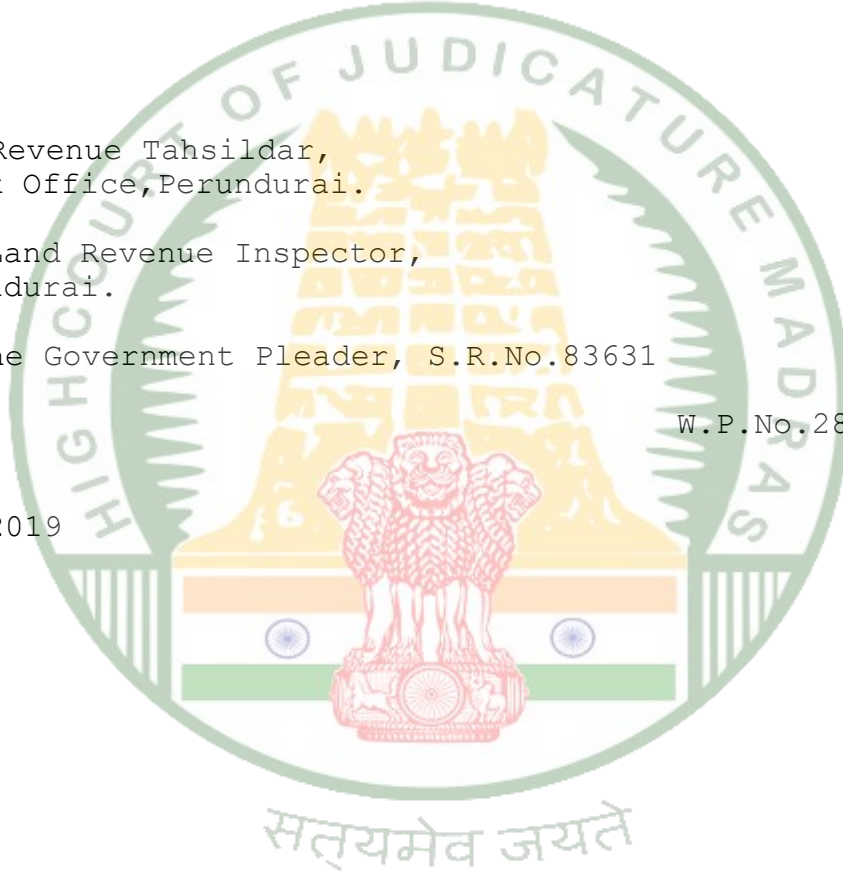
To:

1. The Revenue Tahsildar,
Taluk Office, Perundurai.
2. The Land Revenue Inspector,
Perundurai.

+1cc to the Government Pleader, S.R.No.83631

W.P.No.28614 of 2019

EV(CO)
CS/01/10/2019



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