BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.19482 of 2017 and
W.M.P.(MD)No.15784 of 2017

Dharmaraj Samuel ... Petitioner

Vs.

1. The District Revenue Officer,
Collectorate,
Tirunelveli District.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Tenkasi,
Tirunelveli District.

3. The Tahsildar,
Veerakeralamputhur,
Tirunelveli District.

4. Muthusamy ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent herein/Revisional Authority under Tamil Nadu Patta Pass Book Act, 1983 in his proceedings in Pa.Mu/15130/2016 (U.D.R.17/16) dated 22.12.2016 and quash the same as illegal and further direct the first respondent herein to restore the Patta No.4085 in the name of the petitioner in respect of land in Survey No.565 measuring 2 Acres 70 Cents, Kulaiyaneri Village, Veerakeralampudhur Taluk, Tirunelveli District within a time stipulated by this Court.

Prayer amended vide court order dated 23.11.2017 in WMP(MD)No. 16752/2017)

For Petitioner : Mr.D.Nallathambi
For R-1 to R-3 : Mr.M.Karuppasamy,
Government Advocate.

For R4 : Mr.A.V.Arun

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O R D E R

Heard the learned counsel on either side.

2. The petition mentioned property originally belonged to Thiru.Nallasivam Pillai. The case of the Writ petitioner is that the said Nallasivam Pillai conveyed the property in question in favour of the petitioner's father vide an unregistered sale deed dated 09.12.1979. During U.D.R, the name of Samuvel Vathiyar, the father of the petitioner was entered. Following the demise of Samuvel Vathiyar, the names of his sons got entered in the revenue records. Seeking deletion of the names of the sons of Samuvel Vathiyar and for incorporating his name, the fourth respondent submitted a petition before the Revenue Divisional Officer, Tenkasi. The Revenue Divisional Officer, Tenkasi, by order dated 19.03.2016 allowed the application filed by the fourth respondent herein. The Writ petitioner herein challenged the same before the District Revenue Officer, Tirunelveli. The petitioner's Revision was dismissed by order dated 22.12.2016. These orders are assailed in this Writ petition.

3. The learned counsel appearing for the petitioner reiterated the contentions set out in the affidavit filed in support of this petition. He pointed out that under the Tamil Nadu Patta Passbook Act 1983, the fourth respondent ought to have moved only the third respondent/Tahsildar and that the orders passed by the Revenue Divisional Officer as well as the District Revenue Officer are on the face of it lacking in jurisdiction.

4. I am unable to agree with the aforesaid submission of the learned counsel appearing for the petitioner. It is seen from the materials on record that the name of Samuvel Vathiyar was entered only during U.D.R. This Court can take judicial note of the fact that the authority is bound to set right the errors that have taken place during U.D.R. It is also beyond dispute that there is no limitation for filing an application for such correction before the District Revenue Officer. It is admitted on either side that the property originally stood in the name of Nallasivam Pillai. According to the Writ petitioner, the property was conveyed by Nallasivam Pillai in favour of the Writ petitioner's father Samuvel Vathiyar. Section 54 of the Transfer of Properties Act 1882 states that the transfer in the case of tangible immovable property of the value of one hundred rupees and upwards can be made only by a registered instrument. In this case, the document in question mentions that the value of the property is Rs.300/-. Therefore, in the very nature of things, the property could have been conveyed only through a registered document. Since the document on which the Writ petitioner is placing reliance is an unregistered document, the same could not have conveyed any right in favour of Samuvel Vathiyar.

5. Even though the fourth respondent ought to have moved only

District Revenue Officer and not the Revenue Divisional Officer, I am of the view that since the order impugned in the Writ petition came to be passed only by the District Revenue Officer, Tirunelveli, the same dose not warrant any interference on the ground of jurisdiction. In any event, the first respondent who could have acted as competent authority set right the U.D.R. error.

6. In this view of the matter, the order impugned in this Writ petition stands sustained. The Writ petition stands dismissed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
   Collectorate,
   Tirunelveli District.

2. The Revenue Divisional Officer,
   Revenue Divisional Office,
   Tenkasi, Tirunelveli District.

3. The Tahsildar,
   Veerakeralamputhur, Tirunelveli District.

+1cc to Mr.D.Nallathambi, Advocate in SR.No. 51644
+1cc to Mr.A.V.Arun, Advocate in SR.No. 51670
+1cc to Special Government Pleader in SR.No. 51724

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