



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.07.2019

CORAM

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRABAABU**

AND

THE HONOURABLE MR.JUSTICE **SENTHILKUMAR RAMAMOORTHY**

W.A.(MD)No.1246 of 2018

and

C.M.P(MD)No.8682 of 2018

Y.Sundarrajan .. Appellant/5th Respondent
Vs.

1.R.Agatha Christy ...1st Respondent/Petitioner

2.The District Revenue Officer,
Nagercoil,
Kanyakumari District - 629 001.

3.The Revenue Divisional Officer,
Padbanabapuram, Thuckalay,
Kanyakumari District - 629 175.

4.The Tasildhar,
Kalkulam Taluk,
Thuckalay,
Kanyakumari District - 629 175.

5.G.Yesudhasan .. Respondents 2 to 5/Respondents 1 to 4

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 23.11.2017 passed in W.P(MD)No.2027 of 2017.

Prayer in WP(MD)No. 2027/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records passed by the 2nd respondent dated 15.09.2016 and which has been confirmed by the 1st respondent dated 19.06.2016 and quash the same as illegal.

For Appellant : Mr.Y.Sundarrajan- Party in person

For Respondents : Mr.G.Cenil (for R1)

Mr.N.Shanmugaselvam

Addl. Govt. Pleader (for R2 to R4)

**JUDGMENT**

[Judgment of the Court was delivered by **K.RAVICHANDRABAABU, J**]

Aggrieved by the order passed by the Writ Court in W.P(MD) No.2027 of 2017 dated 23.11.2017, the fifth respondent has chosen to file the present writ appeal. He is also appearing as a party in person.

2.We heard the appellant as party in person, the learned counsel for the first respondent/writ petitioner and the learned Additional Government Pleader appearing for the official respondents.

3.It is seen that arising out of patta proceedings, the writ petitioner filed an appeal before the competent appellate authority challenging the joint patta issued in the name of the petitioner as well as the fifth respondent. It is seen that the said appeal was rejected on the ground of limitation. Challenging the said order of rejection, the writ petitioner filed the above writ petition. At the time of hearing the writ petition, it seen that the learned Special Government Pleader represented before the Writ Court that it is for the writ petitioner to file a fresh appeal and if the same is filed, it would be considered on merits. Taking note of such concession made by the learned Special Government Pleader, the Writ Court directed the writ petitioner to file a fresh appeal before the District Revenue Officer along with necessary documents, within a period of two weeks and upon filing such appeal, a further direction was issued to the first respondent, namely, the District Revenue Officer to consider the same and pass appropriate orders on merits and in accordance with law after affording due opportunity of hearing to the petitioner as well as the interested parties, if any. Now, the fifth respondent before the Writ Court has filed the present appeal by raising very many contentions on merits of the matter.

4.The appellant as a party in person submitted that the petitioner is not entitled to any relief and therefore, this Court itself ought to have considered the merits of the claim made by the respective parties.

5.We have given our careful consideration to the submissions made by both parties.

6.There is no dispute to the fact that challenge made before the Writ Court is against the order arising out of patta proceedings. Needless to state that the dispute between the parties in respect of grant of patta has to be agitated first before the fact finding authorities, namely, the original authority/Tahsildar, appellate authority/Revenue Divisional Officer and the revisional authority/District Revenue Officer. Only thereafter, the matter can come before this Court by way of writ petition, so that this Court



can go into the issue as to whether the decision put to challenge is liable to be interfered with. Even before that stage, the present appeal is filed by raising very many contentions on merits of the claim made by the respective parties. We are not in agreement with the appellant that this Court has to consider the merits of the claim made by the respective parties, more particularly, when the Writ Court has only remitted the matter to the first respondent for hearing the appeal after giving due opportunity of hearing to all the parties. Needless to say that the fifth respondent being a party to the writ petition and also a party aggrieved, is entitled to file his counter petition before the District Revenue Officer, who intturn will consider all the claims and pass appropriate orders. When such course of action is available to the appellant, we do not think that the present writ appeal is necessary.

7. Accordingly, the Writ Appeal is disposed of without expressing any view on the merits of the matter by directing the parties to work out their remedy as provided in the order passed by the Writ Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar (CS-)

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To

1. The District Revenue Officer,
Nagercoil, Kanyakumari District - 629 001.

2. The Revenue Divisional Officer,
Padbanabapuram, Thuckalay,
Kanyakumari District - 629 175.

3. The Tasildhar,
Kalkulam Taluk, Thuckalay,
Kanyakumari District - 629 175.

+2 CC to M/s. Y. SUNDARRAJAN, Advocate
(SR-73556[F] dated 05/07/2019)

W.A. (MD) No. 1246 of 2018 and
C.M.P (MD) No. 8682 of 2018
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