



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2019

CORAM:

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**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.A(MD)NO.1485 OF 2018
and
C.M.P(MD)No.10594 of 2018**

S.M.Noor Mohammed

:Appellant/Petitioner

.vs.

1.The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram District,
Ramanathapuram.

3.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram.

4.Mohammed Khan

5.Marjan Beevi

6.Thaibha

7.Syed Najimunisha : Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.2381 of 2018, dated 06.02.2018.

Prayer in WP(MD). 2381/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari or any other appropriate WRIT or ORDER or DIRECTION in the nature of WRIT calling for records relating the petition in Na.ka.No.A6/7740/2016 with impugned notice dated 23/12/2016 issued by the second respondent and quash the same.



For Appellant

:Mr.J.Barathan
for M/s.T.R.Jeyapalam

For Respondents
1 to 3

:Mr.N.Shanmugaselvam
Addl.Govt.Pleader

For Respondents
4,5 and 6

:No appearance

For Respondent-7

:Mr.D.Senthil

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JUDGMENT

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

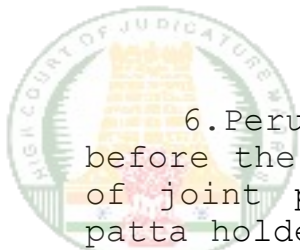
This Writ Appeal is directed against the order passed in W.P (MD)No.2381 of 2018, dated 06.02.2018.

2.The appellant is the Writ Petitioner. He challenged the notice, dated 23.12.2016 issued by the second respondent, wherein and whereby, he was called upon to appear for an enquiry to be held in respect of an appeal arising out of the patta proceedings. The Writ Court dismissed the Writ Petition by holding that the challenge made is only against the notice of enquiry and therefore, the Petitioner can appear before the second respondent and raise his objection.

3.The main grievance of the appellant/Writ Petitioner before us is that the proceedings pending before the second respondent arising out of a Petition filed by the private respondents 4 to 7 is not an appeal arising out of patta proceedings and on the other hand, it is an independent proceedings based on the request made by the private respondents seeking for grant of joint patta by including their names along with the existing name of the holder of patta. Therefore, he contended that when the original authority namely, the Tahsildar has not considered such request and passed any order, the question of approaching the second respondent and filing such application is not maintainable and consequently, the very notice impugned in the Writ Petition ought not to have been issued by the second respondent.

4.On the other hand, the learned counsel appearing for the private respondents submitted that these respondents are entitled get their names included in the subject-matter patta as joint pattadhars and therefore, for which purpose, they have approached the second respondent and made their request.

5.Heard both sides.



6. Perusal of the application filed by the private respondents before the second respondent would show that they seek for issuance of joint patta by including their names along with the existing patta holder namely, Jumma Beevi. Therefore, it is evident that they are not challenging any order passed by the Tahsildar by way of an appeal so as to empower the second respondent to decide the same as an appellate authority. On the other hand, it is evident that they seek for joint patta along with the said Jumma Beevi. Needless to say that such request has to be made before the original authority namely, the Tahsildar, so as to enable him to consider the said request and to pass appropriate orders after hearing all the parties. Instead, the private respondents have approached the second respondent and filed the application, which resulted in the impugned notice, dated 23.12.2018. As rightly pointed out by the learned counsel for the appellant, it is a matter which has to be considered by the original authority namely, the Tahsildar and the second respondent being the appellate authority ought not to have entertained the said application. Therefore, we are convinced that the matter needs a go back to the third respondent/Tahsildar for considering the respective claims of the parties and pass appropriate orders on merits and in accordance with law.

7. Accordingly, this this Writ Appeal is allowed and the order passed by the Writ Court is modified to the following effect:

(a) the second respondent shall refer the matter to the third respondent/Tahsildar, within a period of two weeks from the date of receipt of a copy of this order.

(b) on such reference, the third respondent shall issue notice to both parties, hear them and pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter;

8. We make it clear that we are not expressing any view on the merits of the claim made by the respective parties, as it is for the third respondent/Tahsildar to consider and decide the same on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

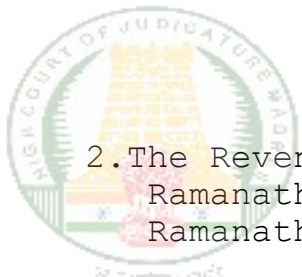
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Sub Assistant Registrar

To

1. The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Revenue Divisional Officer,
Ramanathapuram District,
Ramanathapuram.

3.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-81566[F] dated
14/08/2019)

+1 CC to M/s.D.SENTHIL, Advocate (SR-81867[F] dated 16/08/2019)

JUDGMENT MADE IN
W.A(MD)NO.1485 OF 2018
and
C.M.P(MD)No.10594 of 2018
13.08.2019

vsn

JM/29.08.2019/4P/6C