



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.22468 of 2019

and

W.M.P(MD)No.19252 of 2019

WEB COPY

R.Tamilselvan

... Petitioner

Vs.

1.The District Revenue Officer,
Madurai.

2.The Tahsildar,
Tirumangalam.

3.K.Deepa Ananthi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the impugned order passed by the first respondent in Na.G2/41130/2019 dated 26.09.2019 and quash the same.

For Petitioner : Mr.RM.Arun Swaminathan
For RR 1 & 2 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.
For R - 3 : Mr.V.Maharajan

ORDER

Mr.RM.Arun Swaminathan, learned counsel on record for writ petitioner, Mr.Aayiram K.Selvakumar, learned Additional Government Pleader on behalf of respondents 1 and 2 (official respondents) and Mr.V.Maharajan, learned counsel on behalf of third respondent (private respondent) are before this Court.

2.With consent of all aforementioned learned counsel, main writ petition is taken up, heard out and is being disposed of.

3.Read this in conjunction with and in continuation of earlier proceedings of this Court made in main Writ Petition on 24.10.2019, which reads as follows:

'An order made by 'jurisdictional Revenue Divisional Officer' (hereinafter referred to as 'said RDO' for the sake of brevity, clarity and convenience) was carried in appeal to the 'jurisdictional District Revenue Officer' (hereinafter referred to as 'said DRO' for the sake of brevity). Said DRO has passed an interim order dated 26.09.2018 bearing reference No. [p2/41130/2019 and this interim order is predicated on the ground that said RDO does not have the power of review, but it is not necessary to dilate further on those facts.



2.Learned counsel for writ petitioner submits that interim order (which is the impugned order before this Court in the instant writ petition) made by DRO is in two limbs. One limb is stay of the order of said RDO, but the other limb says that entries in the revenue records have to be rescinded.

3.While first limb may not suffer serious attack in this instant writ petition, second limb directing rescinding of the entries in the revenue records pending appeal prima facie calls for interference.

4.Issue notice regarding admission to the respondents returnable by 14.11.2019.

5.Mr.Aayiram K.Selvakumar, learned Additional Government Pleader accepts notice on behalf of respondents 1 and 2. With regard to third respondent, private notice is permitted.

6.Registry to show the name of learned State counsel in the cause-list in the next listing as well as the name of counsel if any for the third respondent if third respondent enters appearance through counsel and in the alternative, to show the name of the third respondent with name and full address as in the cause title in the writ petition (subject of course to proof of service being filed) in the next listing.

7.List in the ***motion list*** on ***14.11.2019.*** '

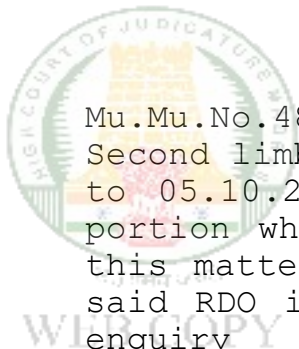
4.Reference to order made by said RDO in the previous proceedings dated 24.10.2019 is a reference to order dated 05.10.2018 bearing Reference Mu.Mu.No.4871/2018/A4.

5.With regard to interim order granted by said DRO (impugned order in instant Writ Petition) in the revision, most critical part of the order is as follows:

'எனவே உசிலம்பட்டி வருவாய் கோட்டாட்சியர் மு.மு.4871/2018/அ4 நாள்: 05.10.2018-ல் காணும் உத்தரவிற் கு தடைவித்தும் கிராமக்கணக்குகளை 05.10.2018 உத்தரவுக்கு முன்பு இருந்த நிலைக்கு கொண்டு செல்லவும்."

(underlining made by this Court to supply emphasis / highlight)

6.As already alluded to supra in the previous proceedings, impugned order is in two limbs. One limb is, stay of the order of said RDO being order dated 05.10.2018 bearing Reference



Mu.Mu.No.4871/2018/A4. This limb of interim order is confirmed. Second limb is reversal of village revenue records as it stood prior to 05.10.2018. Second limb of the impugned order ie., underlined portion which is extracted supra is set aside. One other facet of this matter is that this Court is informed that proceedings before said RDO is continuing and attention of this Court is drawn to an enquiry summon dated 23.10.2018 bearing Reference Na.Ka.No.7488/18/Aa3.

7.It is submitted that when DRO is in seizin of the matter by way of a revision against an order passed by said RDO in exercise of power under Section 12 of the 'Patta Pass Book Act, 1983 (Tamil Nadu Act 4 of 1986)' (hereinafter referred to as 'said Act' for brevity), an order has to be passed by DRO in exercise of power under Section 13 of said Act and said RDO cannot further proceed with the matter. There is no difficulty in accepting the submissions.

8.Said RDO shall send all the records and files to said DRO and shall not proceed any further pursuant to aforementioned enquiry summon dated 23.10.2018.

9.Said DRO shall hear the revision vide Na.Ka.No.G2/41130/2019 as expeditiously as possible on its own merits and in accordance with law after giving reasonable opportunity to all parties concerned and in any event, within a period of eight weeks from the date of receipt of a copy of this order.

10.The outcome of the revision or in other words order passed in the revision shall be communicated by said DRO to writ petitioner, third respondent and other interested parties if any under due acknowledgement within seven (7) working days from the date of completion of aforesaid exercise.

11.Though obvious, it is made clear that confirmed limb of interim order will operate till the date of disposal of the revision and interim order will obviously merge with the main order in revision.

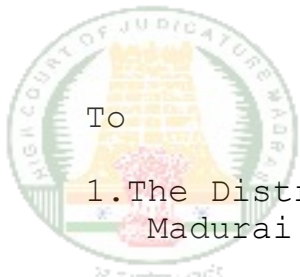
12.Instant Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1.The District Revenue Officer,
Madurai.

2.The Tahsildar,
Tirumangalam.

+1CC to M/s.RM.ARUN SWAMINATHAN,Advocate (SR-98253[F] 14/11/2019)

+1 CC to M/s.V.MAHARAJAN, Advocate (SR-98355[F] dated 14/11/2019)

+1 CC to M/s.GP (SR-98830[F] dated 15/11/2019)

ps sma/27/11/19/ 4p 6*c

W.P (MD) No.22468 of 2019
14.11.2019