

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.5750 of 2020

1.C.Nageshwaranpillai

2.C.Krishnan

... Petitioners

Vs.

1. The District Revenue Officer,
Coimbatore.

2. The Sub Collector,
Pollachi, Coimbatore District.

3. Kalimuthu

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records pertaining to the impugned order dated 01.11.2019 passed by the 1st respondent in Ni.Mu.No.11150/2017/E1, quash the same.

For Petitioner : M.N.Balakrishnan

For Respondents : Mr.S.N.Parthasarathi
Government Advocate

ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 01.11.2019, rejecting the claim made by the petitioners for grant of patta among other things on the ground that civil proceedings are pending before the District Munsif Court, Pollachi.

2. This Court has dispensed with noticed to the third respondent for two reasons. Firstly, on the ground that there is no finding to be rendered by this Court on the merits of the matter. Secondly, the impugned order has been passed by the first respondent exercising his suo-motto powers and not at the instance of the first respondent. Earlier the petitioner filed an application for the second respondent for transfer of patta

in his name from the name of his grand father. This application was rejected by an order dated 31.07.2015 on the ground that the third respondent has filed a suit in O.S.No.157 of 2009 impleading the Revenue Authorities as defendants 1 to 3 and second petitioner as the 4th defendant. Subsequently, the suit was 'dismissed for default' on 06.08.2016 after which the petitioner once again submitted a representation, this was considered and a proposal was sent by the second respondent to the first respondent. The first respondent, in turn has examined the matter and assigned several reasons, as to why the patta cannot be mutated as sought for by the writ petitioner and ultimately, since the suit is pending, the petitioner should work out his rights in the pending suit, which was subsequently restored.

3. In the considered view of this Court, the ultimate conclusion of the first respondent in the impugned order reflects the correct legal position because the Revenue Authorities cannot decide the title to a property. Therefore, the first respondent was right in directing the parties to approach the Civil Court. However, such an order does not require any elaborate reasoning as done by the first respondent in the impugned order. If the observations / findings contained in the impugned order are allowed to stand, then it will affect not only the petitioner but also the third respondent in the suit filed by him on the file of the District Munsif Court, Pollachi. Therefore, all the findings rendered by the first respondent stands eschewed and the order passed by the first respondent is confirmed only to the extent that it directs the parties to approach the Civil Court for necessary relief. It is made clear that the suit shall be decided by the trial Court based on the oral and documentary evidences placed before it and it shall not be in any manner guided or influenced by the observation made in the impugned order.

4. With these observations, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pns

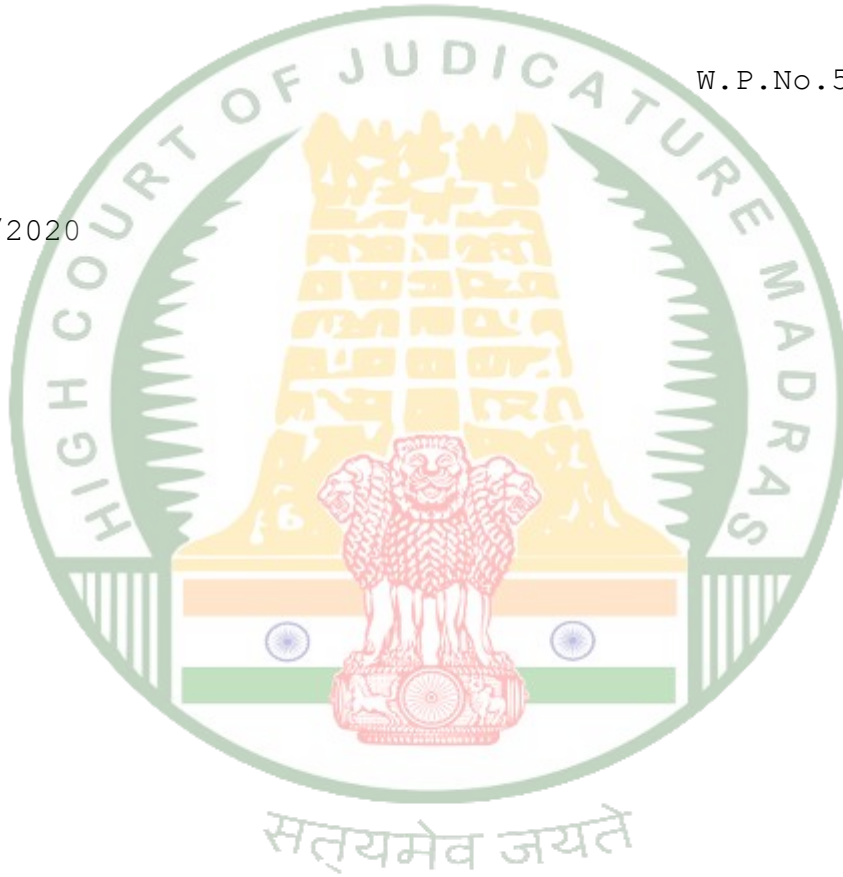
To

1. The District Revenue Officer,
Coimbatore.
2. The Sub Collector,
Pollachi, Coimbatore District.

+1cc to Mr.M.N.Balakrishnan, Advocate, S.R.No.20434
+1cc to Government Pleader, S.R.No.20631

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RSI (CO)
JAS/29/05/2020



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