IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :05.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27980 of 2013
and W.P.No.23266 of 2014
and M.P.No. 2 of 2013
and M.P.No.2 of 2014

W.P.No.27980 of 2013

K. Mummoorthy ...Petitioner

-vs-

1. The District Revenue Officer,
   Collectorate Buildings,
   Tiruppur.

2. The Revenue Divisional Officer,
   Tiruppur.

3. The Tahsildhar,
   Avinashi, Tiruppur District.

4. K. Venkatachalam ... Respondents in W.P.No.27980/2013

W.P.No.23266 of 2014

K. Mummoorthy ...Petitioner

-vs-

1. The District Revenue Officer,
   Collectorate Buildings,
   Tiruppur.

2. The Revenue Divisional Officer,
   Tiruppur.

3. The Tahsildhar,
   Avinashi, Tiruppur District.

4. The District Registrar, (Administration),
Tiruppur.

5. K. Venkatachalam. ... Respondents in W.P.No. 23266 of 2014

COMMON PRAYER: Petitions under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the 3rd and 4th respondent made in proceedings in Na.Ka.No.1481/2013/S2 dated 29.08.2013 and Na.Ka.No.5609/A1/2013 dated 23.07.2014 respectively and quash the same.

For Petitioner [in both W.Ps.] : Mr.N. Umapathi

For Respondents [in both W.Ps.] : Ms.A. Sri Jayanthi Special Govt. Pleaser [R1 to R3]

Mr.K.Govi Ganesan [R4 in W.P.No.27980 of 2013 & R5 in W.P.No.23266 of 2014]

Mr.P.Purushothaman Government Advocate R4 in W.P.No.23266 of 2014

COMMON ORDER

Heard Mr.N.Umapathi, learned counsel for petitioner, Ms.A.Sri Jayanthi, learned Special Government Pleader for 1st, 2nd and 3rd respondents, Mr.K.Govi Ganesan, learned counsel for 4th respondent in W.P.No.27980 of 2013 and 5th respondent in W.P.No.23266 of 2014 and Mr.P.Purushothaman, learned Government Advocate for 4th respondent in W.P.No.23266 of 2014.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. W.P.No.27980 of 2013 has been filed challenging the proceedings of the 3rd respondent dated 29.08.2013 by which the revenue records have been muted and the name of the 4th respondent has been included in the joint patta.

4. The petitioner's grievance is that as against the order passed by the 3rd respondent, the petitioner has filed an appeal before the 2nd respondent and when the appeal was pending, the 3rd

respondent had cancelled the original patta and passed the impugned proceedings.

5. It may not be necessary for this Court to test the correctness of the action initiated by the Thasildar because a suit has been filed by the petitioner himself in O.S.No.221 of 2013 on the file of the District Munsif Court, Avinashi, in which, the 4th respondent has filed a counter claim praying for a decree and it is stated that the matter will be listed on 12.02.2020 for the report of the Commissioner, who has been appointed by the Court.

6. In the light of the fact that the parties are already before the Court and one of the relief sought for is for declaration of the title to the property in question, both the petitioner and the 4th respondent should work out their rights before the Civil Court. However, the 4th respondent cannot take advantage of any observations made by the 3rd respondent in his order dated 29.08.2013 against which the petitioner has preferred an appeal before the revenue authorities. Thus, the 4th respondent has established his case before the Civil Court by oral and documentary evidence. Equally, it is open to the petitioner also to put forth all his contentions before the Civil Court by leading oral and documentary evidence.

7. W.P.No.23266 of 2014 has been filed challenging the order passed by the 4th respondent cancelling the sale deed executed in favour of the petitioner. Since the petitioner and the 5th respondent now agitate their rights over the property in O.S.No.221 of 2013 necessarily the impugned order has to be interfered and the parties should be permitted to agitate all the issues before the Civil Court.

8. In the result,

(i) W.P.No.27980 of 2013 is disposed of by giving liberty to the petitioner and the 4th respondent to put forth all their contentions in the pending suit in O.S.No.221 of 2013. As mentioned above, the 4th respondent cannot rely upon the order passed by the Thasildar and the report independently establishing his right over the property. Till the judgment and decree passed by the Civil Court, the Revenue Authorities are restrained from making any further mutation in the revenue records and the same shall be maintained as it is.

(ii) W.P.No.23266 of 2014 is allowed and the order passed by the 4th respondent is set aside and the sale deed stands restored and the petitioner and the 4th respondent, who are entitled to agitate all their claim, both legal and factual, before the Civil Court in the pending suit. Since the sale deed has directed to be restored, the petitioner shall not be entitled to create any encumbrance over the property in question.

No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To
1. The District Revenue Officer,
   Collectorate Buildings,
   Tiruppur.

2. The Revenue Divisional Officer,
   Tiruppur.

3. The Tahsildhar,
   Avinashi, Tiruppur District.

4. The District Registrar, (Administration),
   Tiruppur.

+1 cc to the Government Pleader sr10005
+2 ccs to Mr.K.Govi Ganesan Advocate sr9174 & 9173
+1 cc to Mr.N.Umapathi Advocate sr9752

W.P.No.27980 of 2013
& W.P.No.23266 of 2014
and M.P.No. 2 of 2013
and M.P.No.2 of 2014

ssd(co)
aa12/03/2020