

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NOS.33794 & 33795 OF 2016
AND WMP.NOS.29158 TO 29160 OF 2016
AND WMP.NOS.29161 TO 29163 OF 2016

Dorairaju ...Petitioner in both W.Ps.

-vs-

1. The District Revenue Officer,
Perambalur District, Perambalur.
2. The Revenue Divisional Officer,
Perambalur District, Perambalur.
3. The Tahsildar,
Perambalur Taluk,
Perambalur District, Perambalur. Respondents in both W.Ps.
4. Ravi
S/o.Paramasivam Respondent in W.P.No.33794/2016
4. Raveendiran
S/o.Late Ponnusamy Respondent in W.P.No.33795/2016

COMMON PRAYER:

Petitions under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the orders dated 19.08.2016 passed by the 1st respondent in her office Ref.Na.Ka.AA.2/18598/2013 and Ref.Na.Ka.AA.2/3073/2014 respectively, quash the same.

For Petitioner : Mr.P.Mani
[in both W.Ps.]

For Respondents : Mr.M.D.Ilayaraja
[in both W.Ps.] Government Advocate [R1 to R3]
Mr.D.Veerasekaran
[R4 in W.P.No.33794 of 2016]
Ms.R.Poornima
[R4 in W.P.No.33795 of 2016]

COMMON ORDER

Heard Mr.P.Mani, learned counsel for petitioner, Mr.M.D.Ilayaraja, learned Government Advocate for respondent Nos.1 to 3, Mr.D.Veerasekaran, learned counsel for respondent No.4 in W.P.No.33794 of 2016 and Ms. R.Poornima, learned counsel for respondent No.4 in W.P.No.33795 of 2016.

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

3. These writ petitions have been filed by one Mr.Dorairaju S/o.Sengamalai. The prayer in W.P.No.33794 of 2016 is to quash the proceedings of the 1st respondent, the District Revenue Officer, Perambalur District dated 19.08.2016. By the said order, the 1st respondent has allowed the appeal petition filed by the 4th respondent Mr.Ravi s/o. Paramasivam and remanded the matter to Revenue Divisional Officer and directed to include the name of Mr. Ravi as joint pattathar.

4. In W.P.No.33795 of 2016, the petitioner has challenged the impugned order dated 19.08.2016 passed by the District Revenue Officer, Perambalur District, by which he allowed the appeal petition filed by the 4th respondent Mr.Raeendiran S/o. Ponnusamy and remanded the matter to Revenue Divisional Officer for fresh consideration for hearing the parties.

5. The petitioner, in the affidavit filed in support of the writ petitions, has set out as to how he has acquired the title to the property. Similarly, the 4th respondent, in both writ petitions, has also filed their counter affidavits along with typed set of papers claiming title to portion of the property and would claim that they should be included as joint pattathars.

6. The 4th respondent in W.P.No.33795 of 2016 is aggrieved by the deletion of the name of the 4th respondent and the other legal heirs of Ponnusamy, which was done without notice to the 4th respondent and the other legal heirs. The 4th respondent in W.P.No.33794 of 2016 would support the order passed by the 1st respondent dated 19.08.2016 and has set out the case in the counter affidavit, wherein, he has stated as to how he is entitled to right over the portion of the property and also regarding the dismissal of the suit in O.S.No.248 of 2006 filed by the vendor Mr.Kathiresan on the file of the District Munsif Court, Perambalur by judgment dated 16.06.2014 and also with regard to the payment of compensation when the lands were acquired in respect of survey No.164/24 measuring an extent of 0.06.00acres.

7. The writ petitioner has filed reply affidavit disputing the correctness of the stand taken in the counter affidavit filed by the respective 4th respondents.

8. All the above facts would clearly show that there is a dispute with regard to an immovable property and each of the parties have set up their claim on specified extent and the issue which is to be resolved is as to whether they are joint pattathars or not. In fact, the 4th respondent in W.P.No.33795 of 2016, Mr.P.Raveendran had approached this Court and filed W.P.No.22150 of 2014, in which his two brothers Mr.P.Jayachandiran and Mr.P.Saminathan were also the petitioners. The prayer sought for in the writ petition was for issuance of a Writ of Mandamus to direct the District Revenue Officer to consider and dispose of their appeal petition dated 14.02.2014. This appeal petition was filed by Mr.P.Ravindran and his brothers challenging the deletion of their names in the joint patta issued in the year 2003.

9. The Court pointed out that directing the District Revenue Officer to dispose of the statutory appeal is not going to resolve the title dispute once and for all and cases of such nature, statutory remedies of appeal and revision etc., would become meaningless since the jurisdiction of the authority is very limited. The Court takes note of the Division Bench Judgment in the cases of Vishwas Footwear Company Limited Vs. The District Collector, Kancheepuram [reported in 2011 (5) CTC 94] and C. Sabesan Chettiar Vs. The District Revenue Officer, Coimbatore District [reported in 2011 (5) CTC 241]. Therefore, the Court held that the petitioners have to move the Civil Court. The operative portion of the order reads as follows:

"3. Admittedly, there is a dispute regarding title to the property in question between the petitioners and respondents 4 and 5. Even if I direct the 1st respondent to dispose of the statutory appeal, it is not going to resolve the title dispute once and for all. In cases of this nature, the statutory remedies of appeal, revision, etc., become meaningless since the jurisdiction of the authorities is very limited. It is already pointed out by two Division Benches of this Court, one in Vishwas Footwear Company Limited Vs. The District Collector, Kancheepuram (2011 (5) CTC 94) and the other in C.Sabesan Chettiar Vs. The District Revenue Officer, Coimbatore District (2011 (5) CTC 241) that these disputes are better resolved through Civil Court.

4. The only problem for persons like the petitioner's is that in the Civil Court, respondent 4 and 5 may rely upon the order of the 2nd respondent in their favour. But, this problem can be addressed by the petitioners by filing interim applications before the Civil Court so that the Civil Court is requested not to take note of the adjudication made by the Revenue Authorities.

5. Therefore, giving liberty to the petitioners to move the Civil Court for larger reliefs, the writ petition is dismissed. No costs."

10. Though such an observation/direction was issued in the writ petition filed by Mr.P.Ravindran, he did not choose to approach the Civil Court, but before this Court he has been impleaded as 4th respondent in W.P.No.33795 of 2016 and the learned counsel for the 4th respondent would strenuously contend that she is not disputing the title over the property, but aggrieved by the deletion of their names from the joint patta. The contention of the learned counsel for the 4th respondent is that she is not disputing the title over the property because the patta is a document to establish possession and the petitioner has to establish that he or she is the lawful possession of the property for which the documents of title have to be produced. Therefore, essentially the Revenue Divisional Officer or the District Revenue Officer will have to go into the title to the property to decide as to whose favour patta has to be granted. Therefore, it is necessary that the parties have to approach the Civil Court.

11. The next question is as to who has to approach the Civil Court. Undoubtedly, Mr.P.Ravindran petitioner in W.P.No.33795 of 2016 has to go to the Civil Court because of the order passed in W.P.No.22150 of 2014 dated 21.08.2014 wherein a direction sought for to dispose of the appeal petition was not granted and the parties were directed to go to the Civil Court in order have a proper adjudication of the cases. This Court is inclined to issue appropriate direction so that the matter can be resolved once and for all.

12. Accordingly, these writ petitions are disposed of by directing the 4th respondent Mr.P.Ravindran and his brothers Mr.P.Jeyachandiran and Mr.P.Saminathan to approach the Civil Court having jurisdiction over the property in question. In the suit, apart from the official respondents, the petitioner Dorairaju, 4th respondent in W.P.No.33974 of 2016 Mr.Ravi s/o. Paramasivam should be impleaded as defendants. Apart from these two persons, if any other person is likely to have any interest

or claim, those persons have to be impleaded as defendants. The parties will be entitled to lead their oral and documentary evidences to establish the title over the property.

13. The parties to these writ petitions are not entitled to rely upon the order passed by the District Revenue Officer dated 19.08.2016 or the order passed by the Revenue Divisional Officer dated 11.10.2013 to establish their right over the property. In such an event, the Civil Court shall decide the title over the property without reference to the orders passed by the revenue authorities dated 19.08.2016 and 11.10.2013 on merits and in accordance with law. The 4th respondent Mr.P.Ravindran and his brothers are directed to approach the Civil Court within a period of six(6) weeks from the date of receipt of a copy of this order. Till a judgment and decree is passed by the Civil Court, the official respondents, namely, the Thasildar, Perambalur District, Revenue Divisional Officer, Perambalur District and District Revenue Officer, Perambalur District are directed not to effect any mutation in the revenue records and the status quo with regard to revenue records, which prevails as on date i.e. 27.01.2020, shall be maintained.

With the above observations, these writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer, Perambalur District, Perambalur.
2. The Revenue Divisional Officer, Perambalur District, Perambalur.
3. The Tahsildar, Perambalur Taluk, Perambalur District, Perambalur.

+1cc to Ms.R.Poornima, Advocate, S.R.No.6301
+6cc to Mr.P.Mani, Advocate, S.R.No.5661 & 5662
+1cc to Mr.D.Veerasekaran, Advocate, S.R.No.5541
+1cc to the Government Pleader, S.R.No.6163

W.P.Nos. 33794 & 33795 of 2016
and WMP.Nos.29158 to 29160 of 2016
and WMP.Nos. 29161 to 29163 of 2016

SVI (CO)
CS/20/02/2020