

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.33981 of 2016

Gandhi

... Petitioner

Vs

1.The District Revenue Officer,
Perambalur District,
Perambalur.

2.Krishnammal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the impugned proceedings on the file of the first respondent in his proceedings in Na.Ka.A2/2031/2016, dated 08.08.2016, and quash the same as illegal and without jurisdiction.

For petitioner : Mr.K.Kumaresan

For R1 : Mrs.A.Sri Jayanthi, Spl.GP

For R2 : Mr.C.Prabakaran

ORDER

Heard Mr.E.Kumaresan, learned counsel for the petitioner, Mrs.A.Sri Jayanthi, learned Special Government Pleader for the first respondent and Mr.C.Prabakaran, learned counsel for the second respondent.

2. The petitioner has filed this writ petition challenging the proceedings of the first respondent dated 08.08.2016 cancelling the patta granted in favour of the petitioner and restoring the patta in favor of the second respondent.

3. The petitioner challenges the impugned order on the ground that the first respondent is not the competent authority and it is only the Revenue Divisional Officer, who is the appellate authority, and the first respondent is only the revisional authority and cannot exercise any appellate power. This submission is not well-founded, because, patta was granted

under UDR (Updated Revision) Scheme and any correction or alteration has to be done only by the District Revenue Officer, not the Revenue Divisional Officer. Therefore, the impugned order does not suffer any lack of jurisdiction.

4. The petitioner would further contend that the first respondent has wrongly traced the title and has not taken note of the decree granted in favour of the petitioner's mother in O.S.No.252 of 1993 and the said judgment and decree have attained finality. Further, the petitioner would contend that the second respondent has filed a suit in O.S.No.274 of 2012 on the file of the District Munsif Court, Perambalur, which is for declaration and the said suit is pending.

5. The suit filed by the petitioner's mother in O.S.No.252 of 1993 is only for permanent injunction, which appears to have been decreed in favour of the petitioner's mother. However, the comprehensive suit filed is one for declaration of title, which has been filed by the second respondent in O.S.No.274 of 2012 and stated to be pending before the District Munsif Court, Perambalur. Therefore, the petitioner has to wait for a decision in the said suit filed by the second respondent, in which, the petitioner's mother-Muthammal is the first defendant. However, in the suit, the plaintiff-Krishnammal/second respondent herein has to independently establish her right over the property by adducing oral and documentary evidence without making any reference to the order passed by the first respondent dated 08.08.2016.

6. In the light of the above, the writ petition is disposed of and the petitioner is directed to wait for an outcome of O.S.No.274 of 2012 and in the said suit, the second respondent shall independently establish her title and interest over the property by adducing oral and documentary evidence and without referring to the impugned order passed by the first respondent dated 08.08.2016. Till the disposal of the said suit, the revenue entries made in the patta register shall be maintained as it stands today (04.02.2020). Interim order of stay already granted by this Court stands vacated and accordingly, WMP.No.3128 of 2017 is ordered. Consequently, W.M.P.No.29325 of 2016 stands closed. No Costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The District Revenue Officer,
Perambalur District,
Perambalur.

+lcc to the Government Pleader Sr.9498
+lcc to Mr.C.Prabakaran, Advocate Sr.9103
+lcc to Mr.E.K.Kumaresan, Advocate Sr.8792

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