

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 4290 of 2016
and WMP.Nos. 3638 & 3639 of 2016
and WMP.No.3199 of 2017

K. Kamal Basha

...Petitioner

-vs-

1. The Revenue Divisional Officer,
Kallakurichi, Villupuram District.
2. The Thasildar,
Kallakurichi, Villupuram District.
3. Sartaj Begum
4. Jeelani Begum
5. The Assistant Engineer,
Tamil Nadu Electricity Board,
Kallakurichi, Villupuram District.
6. The Commissioner,
Kallakurichi Municipality,
Kallakurichi, Villupuram District.
7. The Joint Registrar II,
Kallakurichi, Villupuram District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for records of the 1st respondent in Rc.A4/3991/2015 dated 06.11.2015 and quash the same.

For Petitioner :Mr.I.Kowser Nissar

For Respondents:Ms.A. Sri Jayanthi,
Special Govt. Pleader [RR1, 2, 7]
Mr.K.Sridhar [R3 & R4]

ORDER

Heard Mr.I. Kowser Nissar, learned counsel for petitioner, Ms.A.Sri Jayanthi, learned Special Government Pleader for respondents 1, 2 and 7 and Mr.K. Sridhar, learned counsel for respondents 3 and 4.

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

3. The writ petition has been filed challenging the notice issued by the 1st respondent directing the petitioner to appear for an enquiry in an appeal petition filed by the 3rd and 4th respondents for cancelling the patta granted in favour of the petitioner in respect of the property in question.

4. The learned counsel appearing for the petitioner submitted that the 3rd and 4th respondents have filed a suit before Principal District Judge, Villupuram, pleading that they are in forma pauperis and they have sought relief from the Court to prosecute the proceedings without payment of Court fee by filing pauper O.P.No.31/2016. It is submitted by the learned counsel for petitioner that the petitioners are resisting the pauper O.P by filing a counter affidavit. It is also submitted by the learned counsel for petitioner that the petitioner have already filed a revision to strike off the said petition and the same is pending. The objection raised by the petitioner is that whether the 3rd and 4th respondents sought for remedy before the Civil Court, parallelly, the 1st respondent cannot decide the issue as it has been consistently held by this Court in several decisions that Revenue authorities cannot decide the title to a property.

5. On the other hand, the learned Special Government Pleader would submit that classification of the land is in the revenue records and in the "A" register it is informed as 'sarkar poromboke' and it has to be examined as to whether either the petitioner or 3rd and 4th respondents are entitled for grant of patta. The learned counsel appearing for the 3rd and 4th respondents submitted that there is a serious dispute with regard to the identity of the person under whom the petitioner claims to have derives the title over the property and it is not clear as to who are the legal heirs etc., and apart from that there is also a dispute in the extent of the property. Therefore, the 1st respondent may be directed to conduct enquiry into the matter. It is seen that the Civil suit is yet to be entertained because the prayer sought by the 3rd and 4th respondents to permit them to prosecute their suit is yet to be decided. In any event, the 1st respondent, upon issuing notice of hearing dated 06.11.2015, the petitioners and the 3rd and 4th respondents have appeared and their statements have already been recorded. In such circumstances, it would not be proper to interdict the proceedings after the parties have submitted to the jurisdiction of the 1st respondent and given their statements.

6. However it needs to be pointed out that the 1st respondent should borne in mind that he cannot decide a dispute regarding title to the property, but he can decide as to whether the patta granted was proper and whether the extent is correct, whether it was a Government land or not and whether any person is entitled to grant a patta. However, if the dispute is pertaining to the right claimed by the petitioner and the 3rd and 4th respondents, over the property, i.e. each of them claiming title to the property, then such dispute cannot be decided by the 1st respondent. Therefore, the above legal principle should be borne in mind by the 1st respondent when he decides the matter.

7. In the light of the above, this Court is not inclined to interdict the proceedings commenced by the 1st respondent pursuant to the notice dated 06.11.2015 as the petitioner has appeared for the hearing on 03.02.2016 and has also given his statement.

8. In the result, while declining to quash the impugned order for the reasons set out above, there will be a direction to the 1st respondent to afford one more opportunity to the petitioner and the 3rd and 4th respondents and record fresh statements and pass a reasoned order on merits and in accordance with law and while doing so, 1st respondent should borne in mind the observations made in the preceding paragraph pointing out the legal position as regards the scope of enquiry by the 1st respondent in such matters.

The enquiry shall be completed and final orders be passed within a period of three(3) months from the date of receipt of a copy of this order. The petitioner and the 3rd and 4th respondents are directed to extend full co-operation in the enquiry.

With the above direction, the writ petition is disposed of. No costs. Connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

mp

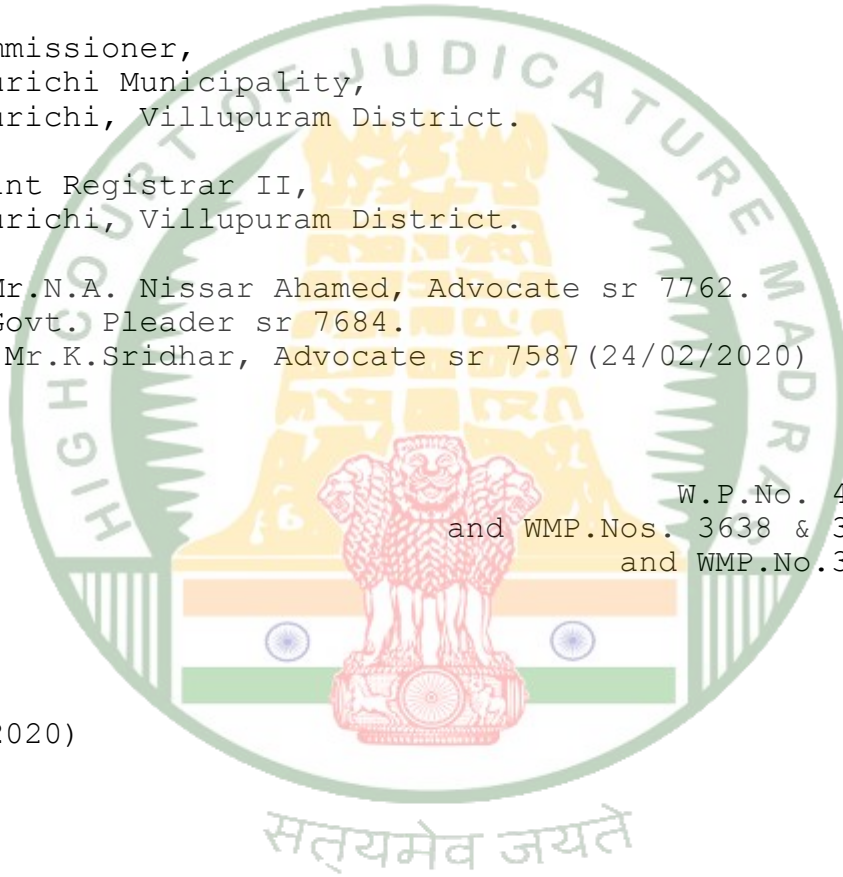
To

1. The Revenue Divisional Officer,
Kallakurichi, Villupuram District.
2. The Thasildar,
Kallakurichi, Villupuram District.
3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Kallakurichi, Villupuram District.
4. The Commissioner,
Kallakurichi Municipality,
Kallakurichi, Villupuram District.
5. The Joint Registrar II,
Kallakurichi, Villupuram District.

+1 CC to Mr.N.A. Nissar Ahamed, Advocate sr 7762.
+1 CC to Govt. Pleader sr 7684.
+1 CC to Mr.K.Sridhar, Advocate sr 7587(24/02/2020)

W.P.No. 4290 of 2016
and WMP.Nos. 3638 & 3639 of 2016
and WMP.No.3199 of 2017

NRL (CO)
SP(17/02/2020)



WEB COPY