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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.17454 & 16277 of 2017
W.M.P.Nos.18955,17607 & 17608 of 2017
(Heard through Video Conferencing)

Narayanappa ...Petitioner in
W.P.No.17454 of 2017

Lakshmappa ...Petitioner in
W.P.No.16277 of 2017

vs.

- 1.The District Collector,
Krishnagiri District,
Krishnagiri. ...R1 in W.P.No.17454 of 2017
- 2.The District Revenue Officer,
Krishnagiri District,
Krishnagiri. ...R2 in W.P.No.17454 of 2017
& R1 in W.P.No.16277 of 2017
- 3.The Tahsildar,
Denkanikottai Taluk,
Krishnagiri District. ...R3 in W.P.No.17454 of 2017
- 4.Muniyamma ... R4 in W.P.No.17454 of 2017
5. The Sub Collector,
Hosur,
Krishnagiri District. ...R2 in W.P.No.16277 of 2017
- 6.The Tahsildar,
Taluk Office,
Hosur,
Krishnagiri District. ...R3 in W.P.No.16277 of 2017
- 7.Muniyammal ...R4 in W.P.No.16277 of 2017
- 8.Pillaiappa Boyan @ Pillai Boyan...R5 in W.P.No.16277 of 2017
- 9.Chandrappa ...R6 in W.P.No.16277 of 2017
- 10.Narayanappa ...R7 in W.P.No.16277 of 2017
- 11.Gopalappa ...R8 in W.P.No.16277 of 2017



12.Krishnamurthy

...R9 in W.P.No.16277 of 2017

13.M.Rajasekar

...R10 in W.P.No.16277 of 2017

PRAYER IN W.P.No.17454 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the second respondent in Pa.Mu.No.24760/2016/J-2 dated 27.03.2017 and to quash the same as illegal, incompetent and ultravires and consequently, direct the second respondent to restore the patta in Patta Nos.126, 427, 661, 554, 116, 799, 316.

PRAYER IN W.P.No.16277 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent relating to Pa.Mu.No.24670/2016/J-2 dated 27.03.2017 and to quash the same and consequently, direct the 1st respondent to conduct an enquiry afresh and pass orders in accordance with law after affording opportunity to all the parties concerned within the time to be stipulated by this Court.

For Petitioner : Mr.R.Jayaprakash
in W.P.No.17454
of 2017

For Petitioner : Mr.R.Bharath Kumar
in W.P.No.16277
of 2017

For R1 to R3 : M/s.A.Madhumathi,
in both W.Ps Special Government Pleader

For R4 : Mr.M.P.Saravanan
in W.P.No.17454
of 2017

For R6 to R9 : M/s.V.Sakarapani
in W.P.No.16277
of 2017

R5 in W.P.No.16277 of 2017-Deceased
R4 to R10 in W.P.No.16277 of 2017-Tapal returned

C O M M O N O R D E R

Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents in both the writ petitions.

2. Both these writ petitions have been filed challenging the order passed by the District Revenue Officer, Krishnagiri District dated 27.03.2017 cancelling the joint



patta granted in favour of the petitioners and others; restore the patta in Patta Nos.126, 427, 661, 554, 116, 799, 316 and to direct the 1st respondent to conduct an enquiry afresh and pass orders in accordance with law after affording opportunity to all the parties concerned within the time to be stipulated by this Court.

3. It may not be necessary for this Court to go into the factual aspects as it would be an exercise which normally not to be done in writ proceedings, namely, adjudicating into the title to an immovable property. The issue in this case does not stand resolved because, already the parties are before the Civil Court in O.S.No.263 of 2014. The said suit has been filed before the Sub-Court, Hosur for partition, in which, the 5th respondent in W.P.No.16277 of 2017 is the first plaintiff; the 4th respondent / Muniyamma in W.P.No.16277 of 2017 is the first defendant; the writ petitioner in W.P.No.16277 of 2017 / Lakshmappa is the fourth plaintiff; the writ petitioner in W.P.No.17454 of 2017 / Narayanappa is the 7th plaintiff and the 4th respondent in W.P.No.17454 of 2017 / Muniyamma is the first defendant. The suit is for partition to divide the properties by metes and bounds.

4. Written statement has been filed in the said suit which according to the learned counsel for the respondents, fully would support the case of the writ petitioners. It is further submitted that the suit is posted for trial on 03.06.2019. One important factor which has to be taken note of is that, the impugned order has been passed without issuing notice to the writ petitioner in W.P.No.16277 of 2017 / Lakshmappa and without adequate opportunity to the writ petitioner in W.P.No.17454 of 2017 / Narayanappa. That apart, the impugned order has been passed when the suit was pending (O.S.No.263 of 2014), that too at the instance of the contesting respondents in these writ petitions. Therefore, the District Revenue Officer, Krishnagiri ought not to have entertained the request made for cancellation of the joint patta, when the parties are before the Civil Court.

5. Therefore, in the considered view of this Court, the impugned order in both the writ petitions cannot be relied on by the private respondents in these writ petitions as they are required to substantiate their case before the Civil Court, based on the oral and documentary evidence. Further, it is stated that O.S.No.22 of 2006, a suit for bare injunction is also pending. Thus, the parties have gone before the Civil Court and they are bound to agitate their claims before the Civil Court and the remedy chosen by the private respondents in these writ petitions by approaching the District Revenue Officer, Krishnagiri is a procedure which should not have been done and it has to be deprecated.

6. For all the above reasons, the writ petitions are disposed of, with the observations that the parties to the



Civil Suit shall not in any manner refer to the impugned order in these writ petitions and they have to independently agitate their claims before the Civil Court by letting oral and documentary evidence. Likewise, the Civil Court in this matter shall not in any manner refer to any of the observations made in the impugned order and decide the issue based on oral as well as documentary evidence and the law that may be placed for consideration of the Court. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Krishnagiri District,
Krishnagiri.
- 2.The District Revenue Officer,
Krishnagiri District,
Krishnagiri.
- 3.The Tahsildar,
Denkanikottai Taluk,
Krishnagiri District.
4. The Sub Collector,
Hosur,
Krishnagiri District.
- 5.The Tahsildar,
Taluk Office,
Hosur,
Krishnagiri District.

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W.P.Nos.17454 & 16277 of 2017