



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.1878 of 2020

P.P.M.Ganeshan

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Collector Office Campus,
Dindigul.

2.The Tahsildar,
Athur Taluk,
Dindigul District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the 1st respondent to dispose the appeal pending in Na.Ka.No.6221/19/A4 within a stipulated time as prescribed by this Court.

For Petitioner : Mr.A.Chandrakumar

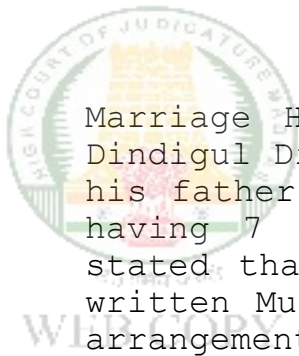
For Respondents : Mr.C.Ramar,
Additional Government Pleader

ORDER

This writ petition is filed for issuing a writ of Mandamus to direct the 1st respondent to dispose the appeal pending in Na.Ka.No.6221/19/A4 within a stipulated time as prescribed by this Court.

2.Mr.C.Ramar, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3.The petitioner admits that a Civil suit is pending in A.S.No.57 of 2018 between the petitioner and his brothers after the suit filed by him were dismissed. The petitioner further states that another suit has been filed by his son in O.S.No.86 of 2019 before the Principal District Munsif Court, Dindigul. The petitioner's case is that the petitioner's family was having a

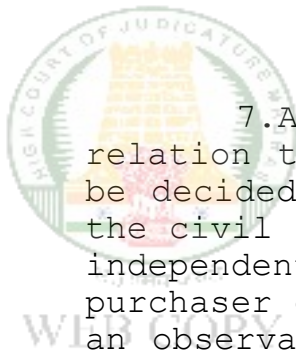


Marriage Hall in S.No.129/3 in Kizhakottai village, Athur Taluk, Dindigul District and that the said Marriage Hall was constructed by his father by name P.P.Malli Chettiyar. The petitioner's father is having 7 sons and 4 daughters including the petitioner. It is stated that there was a family arrangement in the year 1996 by a written Muchalika. It is contended by the petitioner that by this arrangement petitioner's father divided all the properties to his children including the petitioner except the Marriage Hall. Since the Marriage Hall was under the custody of petitioner's father, the petitioner states that his father executed an un-registered Will settling the said Marriage Hall to all his sons including the petitioner. It is stated further that the petitioner's brothers concealing the Will executed by his father illegally executed a sale deed in favour of one Mr.Pandian and that therefore the petitioner was constrained to approach the Civil Court in O.S.No.184 of 2014 before the Additional Sub Court, Dindigul. Since the suit was dismissed, the petitioner has filed an appeal in A.S.No.57 of 2018 before the District Court and the said appeal is pending.

4.It is in the said circumstances, the petitioner states further that his brothers have fraudulently sold the Marriage Hall to another person by name Pandian during the pendency of civil suit. It is stated that the purchaser of the Marriage Hall submitted an application to get patta and that the second respondent, despite the objection filed by the petitioner, granted patta in favour of the purchaser. The petitioner, thereafter approached the first respondent by way of appeal and that the said appeal is pending. It is only to consider and dispose of the appeal preferred by the petitioner, this writ petition is filed. The petitioner has not impleaded his brothers or the purchaser.

5.The revenue officials are not competent to decide the question of title. In the instant case, the dispute between the petitioner and his brothers has lead to the petitioner filing a civil suit. Since the appeal is pending in A.S.No.57 of 2018 before the District Court, and the petitioner's suit is dismissed, the revenue officials under the Tamilnadu Patta Pass Book Act has no independent right to decide the question of title. Their jurisdiction is very limited. The revenue authorities cannot go behind the order or decree of civil Court while deciding the question of title. It is only as per the declaration of civil court in relation to one's title, the authorities can carry out modification of revenue records.

6.In such circumstances, in view of judgment of trial Court in the suit filed by the petitioner in O.S.No.184 of 2014, the petitioner may not get favourable order from the first respondent, the appellate authority. The petitioner's apprehension is that the patta standing in the name of purchaser will be a hindrance for him to establish his title or enjoyment.



7.As it is settled, the question of title or enjoyment in relation to the property after death of petitioner's father has to be decided only on the basis of evidence let in by both parties in the civil suit. It is not open to the Revenue Divisional Officer to independently consider the claim of either the petitioner or the purchaser or the petitioner's brothers. In such circumstances, with an observation that the appeal in A.S.No.57 of 2018 is expected to be decided on merits un-influenced by the order of Thasildar, transferring patta in favour of the purchaser, this writ petition is disposed of.

8.It is open to the petitioner to approach the second respondent or to seek modification of records in terms of the decree that may be passed in the pending appeal or in the suit filed in O.S.No.86 of 2019 before the Principal District Munsif, Dindigul. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

To

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Collector Office Campus,
Dindigul.

2.The Tahsildar,
Athur Taluk,
Dindigul District

+1 CC to M/s.A.CHANDRAKUMAR, Advocate (SR-4083[F] dated 31/01/2020)

+1 CC to M/s.SPL.GP (SR-4307[F] dated 31/01/2020)

W.P.(MD).No.1878 of 2020

30.01.2020

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