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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.770 of 2019

in

WMP.No.844 of 2019

Sivagamy

.. Petitioner

Versus

1. The District Revenue Officer,
Perambalur.

2. The Sub Collector,
Perambalur.

3. Manonmani

.. Respondents

Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the first respondent relating to the impugned proceedings in Na.Ka.B2 11729/2016 (Review Application No.11729 of 2018) dated 09.11.2018 and quash the same.

For Petitioner : Mr.T.Sai Krishnan

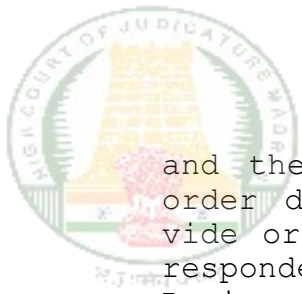
For Respondents : Mr.M.R.Gokula Krishnan
Government Advocate R1 & R2

For Respondent R3 : No Appearance

ORDER

An issue that is to be decided by a competent civil Court was sought to be agitated before the revenue authorities viz., respondents 1 & 2 herein which resulted in passing of orders in favour of the petitioner and a review having been entertained against the said order, has resulted in the filing of the present writ petition.

2. The petitioner claims to be the owner of a specific property. The third respondent, claiming to be a legal heir and a sharer to that property, filed an application before the second respondent, in which, the petitioner filed his counter



and the second respondent, after due consideration, passed an order dismissing the application filed by the third respondent vide order dated 04.11.2015. Aggrieved over the same, the third respondent preferred an appeal before the first respondent in Review Petition No.1147 of 2016. The first respondent confirmed the order passed by the second respondent and observed that the issue has to be decided only by the Civil Court. Aggrieved over the said order passed by the first respondent, the third respondent preferred review petition in Rev. No.11729 of 2018 which was entertained by the 5th respondent and the petitioner was directed to appear for enquiry. The petitioner appeared before the first respondent and objected to the review being entertained. However, the objections of the petitioner were overruled and the petitioner was directed to appear again with sufficient documents. Challenging the same, the present writ petition has been filed by the petitioner.

3. Learned counsel appearing for the petitioner submitted that when the first respondent had negatived the case of the third respondent and held that the matter has to be decided before the civil Court, the revisiting of the same order by way of review is wholly impermissible.

4. Though notice has been served on the third respondent as early as in the year 2019, yet there is no representation for the 3rd respondent, which shows that the 3rd respondent is not inclined to contest the matter. In view of the pending of the writ petition, this Court is constrained to take up the same and pass orders on its own merits.

5. Heard the learned counsel for the petitioner as well as the learned counsel for respondents 1 & 2 and perused the materials available on record.

6. A perusal of the materials available on record reveal that the first respondent, as appellate authority, has confirmed the order passed by the second respondent. In the said order, the first respondent has even made an observation that the third respondent has to approach the competent civil Court. For redressing his grievance, once a specific finding is rendered by the first respondent on a review by the third respondent, the first respondent is trying to revisit his own order by directing the petitioner to appear for enquiry is grossly erroneous. Hence an order has been passed by the first respondent on merits, under the guise of review the first respondent, cannot revisit his earlier order more so when a categorical finding have been recorded that the issue has to be agitated before the Civil Court. It is rather strange that without any change of circumstances or without any new materials being produced before the first respondent by the third



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respondent, the first respondent has chosen to entertain the review and directed the petitioner to appear for an enquiry. In the absence of any valid materials and change of circumstances, the review, entertained by the first respondent cannot be sustained in law.

7. For the reasons aforesaid, the Writ Petition is allowed and the proceedings in Na.Ka.No.B2 11729/2016 (Review Application No.11729 of 2018) dated 09.11.2018 is quashed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

1.The District Revenue Officer,
Perambalur.

2.The Sub Collector,
Perambalur.

+1cc to Mr.T.Saikrishnan, Advocate, S.R.No.57354

+1cc to the Government Pleader, S.R.No.57716

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KK(CO)
SB(02/03/2022)