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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.28103 OF 2013

AND

M.P.NO.1 OF 2013

L.T.Palanisamy

... Petitioner

Vs

1. The District Revenue Officer,
Erode District
at Office of Collector Office,
Erode.
2. The Revenue Divisional Officer,
Erode, Erode District.
3. The Tahsildar,
Erode, Erode District.
4. L.A.Thengappa Gounder

... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the entire records of the impugned order passed by first respondent on 23.09.2013 in Proceedings NI.Mu.28544/2007/VU4, Quash the same.

For Petitioner	: Mr.P.Dinesh Kumar
For Respondents	: Mr.M.R.Gokul Krishnan,
1 to 3	Government Advocate
For Respondent 4	: Mr.K.G.Vasudevan

O R D E R

This writ petition has been filed to issue a Writ of Certiorari to call for the entire records of the impugned order passed by first respondent on 23.09.2013 in Proceedings NI.Mu.28544/2007/VU4, Quash the same.



2. The case of the petitioner is that the petitioner is in possession and enjoyment of the property comprised in Survey Nos.814/4 and 944/4, which was allotted and purchased respectively by the fourth respondent herein. By the family partition the said property was allotted in favour of the petitioner. At the time of partition the petitioner was a minor and hence his mother was enjoying the said property on his behalf till 1981. He is being the youngest son of the fourth respondent herein, he has deprived of by allotting lesser share. The petitioner also constructed a dwelling house in the property comprised in Survey No.814/2 and also obtained electricity service connection.

3. On the strength of the partition deed the petitioner was issued patta in patta no.832. However, the fourth respondent challenged the same before the second respondent. In the mean while, the petitioner also filed a suit for declaration and permanent injunction in O.S.No.67 of 2005 on the file of the District Munsif cum Judicial Magistrate, Kodumudi.

4. While pending the suit, the second respondent dismissed the petition filed by the fourth respondent and aggrieved over the same the fourth respondent filed appeal before the first respondent. In the mean time, the suit filed by the petitioner was dismissed by the Judgment and Decree dated 26.03.2008 and aggrieved by the same the petitioner also preferred first appeal in A.S.No.125 of 2008 and the same was also dismissed by the Judgment and Decree dated 15.11.2012. Aggrieved by the same, the petitioner filed second appeal in S.A.No.594 of 2013 and it is pending before this Court.

5. Even as per Section 14 of the Patta Passbook Act, after order passed under Section 13 of the Patta Passbook Act, the aggrieved party has to file a suit. In the case on hand, the petitioner rightly filed the suit for declaration and injunction for the very same subject property and it is pending in the second appeal before this Court. Therefore, this Court finds no infirmity and illegality in the orders passed by the first respondent and this writ petition devoid on merits and liable to be dismissed.

6. However, if the petitioner succeeded in the second appeal in S.A.No.594 of 2013 is at liberty to approach the third respondent for issuance of patta in the manner known to law. It is made clear that the petitioner is in possession and enjoyment of the subject property, considering the said submission, the petitioner and fourth respondent are directed to maintain status-quo as on today in respect of the subject property till the disposal of the second appeal.



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7. Accordingly, this writ petition is dismissed. No order as to costs. Consequently, the connected M.P.No.1 of 2013 is dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rna

To

1. The District Revenue Officer,
Erode District
at Office of Collector Office,
Erode.
2. The Revenue Divisional Officer,
Erode, Erode District.
3. The Tahsildar,
Erode, Erode District.

+1cc to Mr.J.Ramakrishnan, Advocate, S.R.No.55258

W.P.No.28103 of 2013
and M.P.No.1 of 2013

SMI (CO)
RLP(01/12/2021)