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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.5473 of 2013
and M.P No.2 of 2013

1. Krishnan (Died)

2. Parvathy

(Second petitioner brought
on record as legal heir of the
deceased sole petitioner vide
Court order dated 09.09.2021
made in W.M.P.No.20153 of
2012 in W.P.No.5473 of 2013)

... Petitioners

-Vs-

1. The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.

2. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.

3. The Thasildar
Thandrapet Taluk,
Thandrapet,
Tiruvannamalai District.

4. The Assistant Executive Engineer,
TANGEDCO,
Thandrapattu,
Tiruvannamalai District.

5. The Junior Engineer (O & M)
TANGEDCO,
Perugulathur,
Thandrapattu Taluk,
Tiruvannamalai District.

6. Manickam

7. Jagannathan

... Respondents

Prayer :- Writ Petition filed under Article 226 of the
Constitution of India praying for the issuance of a Writ of
Certiorari, to call for the records relating to the order
dated 28.12.2012 passed by the first respondent in his office



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proceedings Ref: Mu.Mu.(M-1)35223/2012 and the order dated 27.08.2012 passed by the second respondent in his office proceedings Mu.Mu.No. (A3)/5995/2012 and quash the same.

For Petitioners : Mr.P.Mani

For Mr.V.Murali

For Respondents

For R1 to R5 : Mr.G.Baranidharan
Government Advocate.

For R6 : No appearance

R7 : Dismissed vide Court
Order dated 01.09.2016.

ORDER

The Writ Petition has been filed to call for the records relating to the order dated 28.12.2012 passed by the first respondent in his office proceedings Ref: Mu.Mu.(M-1) 35223/2012 and the order dated 27.08.2012 passed by the second respondent in his office proceedings Mu.Mu.No. (A3)/5995/2012 and quash the same.

2. The case of the petitioner is that the property comprised in Survey No.61/12 situated at Royandapuram Village, Thandarampet Taluk, Tiruvannamalai District, originally belongs to his ancestral. On oral partition, the land ad measuring 30 cents was allotted to the petitioner's father and remaining extent of the property was allotted to his paternal uncle. After partition the petitioner and his father were in possession and enjoyment of the property and after demise of his father, the petitioner alone is in possession and enjoyment of the property. Likewise, after demise of his paternal uncle, his son one Krishnamoorthy is in possession and enjoyment of the property and both are in enjoyment of the same.

3. While being so, the sixth and seventh respondents managed to include their names as joint pattadars insofar as the property comprised in survey No.61/12 and also obtained separate service connection to the Well belonged to the petitioner in survey No.61/12. Therefore, the petitioner made a representation for deleting the names of the respondents 6 & 7 in the patta and the same was ordered in his favour by the third respondent herein by, an order dated 03.01.2011. However, the respondents 6 & 7 filed an appeal before the second respondent and the same was allowed by an order dated 27.08.2013 and restored the original patta stood in the names of the petitioner and the respondents 6 & 7 herein. Aggrieved by the same, the petitioner filed revision before the first respondent on 01.11.2012. The said revision was dismissed by the first respondent by the impugned order and aggrieved by the same, the present Writ petition has been filed.

4. Heard Mr.P.Mani, learned counsel appearing for the petitioner, Mr.G.Baranidharan, learned Government Advocate appearing for the respondents 1 to 5.



5. It is seen from the records revealed that, the petitioner also filed a suit for declaration in O.S.No.136 of 2009 on the file of the District Munsif Court, Chengam. In the said suit, though an exparte decree was passed on 15.04.2010, thereafter it was set aside and the suit in O.S.No.136 of 2009 was dismissed. Aggrieved by the same, the petitioner filed an appeal in A.S.No.47 of 2015 and it is pending for adjudication on the file of the Principal Sub Court, Thiruvannamalai as against the respondents 6 & 7 herein.

6. Further the revision filed by the petitioner was dismissed on the ground that the suit filed by the petitioner is pending and the revision petition is barred by limitation, since the revision ought to have been filed within a period of thirty days. The petitioner filed revision under Section 13 of the Patta Passbook Act, 1983. To file revision, the Rule 15 of the Patta Passbook Rules, 1987, provides ninety days from the date of the order passed in the appeal. The second respondent passed order in appeal on 27.08.2012. Therefore, the petitioner had time to file revision till 27.11.2012 and the petitioner filed revision as early as on 01.11.2012 itself. Therefore, the revision was well within the time as stipulated under Rule 15 of the Patta Passbook Rules, 1987. Further the appeal filed by the petitioner in A.S.No.47 of 2014 is still pending. Therefore, the impugned order cannot be sustained, since the revision was dismissed for the reason that it was barred by limitation.

7. In view of the above discussion, the order dated 28.12.2012 passed by the first respondent in proceedings No. Mu.Mu.(M-1)35223/2012 is hereby set aside. The revision is remanded back to the first respondent for fresh consideration. It is made clear that the first respondent is directed to dispose the revision, subject to the result of the appeal suit in A.S.No.47 of 2015 on the file of the Principal Sub Court, Thiruvannamalai, after issuance of the notice to the parties concerned and after giving opportunity of hearing to them.

8. In the result, the Writ petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar



To

1. The District Revenue Officer,
Tiruvannamalai District,
Tiruvannamalai.
2. The Revenue Divisional Officer,
Tiruvannamalai,
Tiruvannamalai District.
3. The Thasildar
Thandrampet Taluk,
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5. The Junior Engineer (O & M)
TANGEDCO,
Perugulathur,
Thandrampattu Taluk,
Tiruvannamalai District.

+1cc to Government Pleader SR.No.46160

W.P. No.5473 of 2013
and M.P No.2 of 2013

KSM(CO)
GMY(11/10/2021)