BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.02.2021**

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P(MD) No.113 of 2021
and
W.M.P(MD)No.108 of 2021

K.Jeganathan .. Petitioner

Vs

1. The District Collector,
   Virudhunagar District,
   Virudhungar.

2. The District Revenue Officer,
   Office of the Collectorate,
   Virudhunagar District,
   Virudhunagar.

3. The Revenue Divisional Officer,
   O/o.the Revenue Divisional Officer,
   Sivakasi Town, Virudhunagar District.

4. The Tahsildar,
   Taluk Office,
   Srivilliputhur Town,
   Virudhunagar District.

5.S.Balakrishnan .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, calling for the records pertaining to the impugned enquiry notice in Na.Ka.A1/7142/2020, dated 25.11.2020 on the file of the 3rd respondent herein and to quash the entire consequential enquiry proceedings in pursuance of the impugned enquiry notice as arbitrary and illegal and consequently direct the 4th respondent herein to update the revenue records pertaining to the Trust Property to the name of 'Arulmigu Sidhi Vinayagar Koil Present Trustee' in consonance with the orders of the 1st respondent dated 29.09.2011.

For Petitioner : Mr.T.Lajapathiroy for Mr.M.Thirunavukkarasu

For R1 to R4 : Mr.M.Jeyakumar, Additional Government Pleader

For R5 : Mr.A.Sivaji

ORDER

What is challenged in this writ petition is the notice issued by the third respondent Revenue Divisional Officer, Sivakasi vide Na.Ka.A1/7142/2020, dated 25.11.2020.

2.Mr.T.Lajapathiroy, learned Counsel appearing for the petitioner would submit that under Section 13 of the Patta Pass Book Act, it is the District Revenue Officer, who is the competent authority, not the Revenue Divisional Officer, for exercising revisional jurisdiction.

3.In view of the above submission, Mr.M.Jeyakumar, learned Additional Government Pleader was directed to verify under what enactment, the proceedings has been initiated by the Revenue Divisional Officer and after verifying with the officer concerned, on instructions, the learned Additional Government Pleader would submit that the impugned proceedings has been initiated under Section 13 of the Patta Passbook Act.

4.The submission of the learned Additional Government Pleader, in the opinion of this Court would amount to conceding the legal position, that the Revenue Divisional Officer is not having competence to initiate the proceedings under Section 13 of the Patta Passbook Act.

5.Therefore, this Court is of the opinion that the legal objections raised on behalf of the petitioner is to be sustained and the impugned proceedings is liable to be declared *per se* as illegal and non est.

6.For the above said reasons, the impugned proceedings in Na.Ka.A1/7142/2020, dated 25.11.2020 on the file of the 3rd respondent is hereby set aside as the same is *non-est* in the eye of law.

7.The writ petition is accordingly allowed. It is made clear that this Court has not expressed anything on the merits and demerits of the rival claimants. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

// True Copy //

/ /2021
Sub Assistant Registrar(CS)

To

1. The District Collector,
   Virudhunagar District,
   Virudhungar.

2. The District Revenue Officer,
   Office of the Collectorate,
   Virudhunagar District,
   Virudhunagar.

3. The Revenue Divisional Officer,
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4. The Tahsildar,
   Taluk Office,
   Srivilliputhur Town,
   Virudhunagar District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER (SR-3057[F] dated 03/02/2021)

+1 CC to Mr.A.SIVAJI, Advocate (SR-3187[F] dated 04/02/2021)

W.P(MD) No.113 of 2021
02.02.2021

dsk
AE/ (16/02/2021) 3P / 7C