



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P (MD) No.1259 of 2021

and

W.M.P (MD) Nos.1064, 1066 and 1070 of 2021

Balasubramanian

... Petitioner

Vs

1. The District Collector,
Thanjavur District,
Thanjavur.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Pattukottai,
Thanjavur District.
3. The Tahsildar,
Pattukottai Taluk,
Thanjavur District.
- 4.Durai
- 5.Kamaraj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a WRIT OF CERTIORARIFIED MANDAMUS, to call for the records pertaining to the impugned order passed by the 3rd respondent in Pa.Maa.2019/2017, Aa.6, dated 05.03.2019 and quash the same as illegal and consequently, direct 1 to 3 respondents to restore the revenue entries in respect of the property in Old Survey No.117 D, New Town Survey No.6, Block-7, Ward-B, Pattukottai Town, Thanjavur District in the name of the Trust.

For Petitioner : Mr.K.Navaneetharaja

For R1 to R3 : Mr.M.Jeyakumar

Additional Government Pleader

ORDER

The case of the petitioner is that his ancestors started a public charity trust namely, Thachan Thiruvasal Thaneer Panthal. The trust was managed by the hereditary trustees and the trust is having



certain properties in T.S.NO.116/3, 117-C, 86A1 and 117 D at Pattukottai.

2. According to the petitioner that some persons, who had no connection whatsoever with the trust had filed a civil suit in O.S.No.27 of 1971 before the learned Subordinate Judge, Thanjavur, claiming management of the trust properties and also for removal of the existing trustees. According to the petitioner, the suit was decreed *ex-parte*. In the meanwhile, the petitioner was also appointed as one of the trustees for the trust and that was in the year 1970.

3. The grievance of the petitioner herein is that the 3rd respondent appears to have conducted an enquiry at the instance of the 4th respondent and transferred the patta for the properties belonging to the trust in the name of the 4th respondent vide the order dated 05.03.2019. The 3rd respondent while transferring the patta has not followed the principles of natural justice, as no notice was issued to the trustees of properties.

4. The document relied on by the 3rd respondent in the order is false and the 4th respondent had managed to convince the 3rd respondent to order the change of patta in his favour by suppressing material facts and on the basis of certain falsified documents. Being aggrieved over by the order of the 3rd respondent, the present writ petition has been filed.

5. The learned Counsel appearing for the petitioner would submit that the 3rd respondent while granting change of patta in favour of the 4th respondent has committed a grave infirmity in ignoring the settled legal position that in regard to the title of the properties, the revenue authorities have no competence and he ought to have directed the parties to approach the civil court for establishing their claim over the properties in question.

6. According to the learned Counsel for the petitioner in this case, there is serious title dispute and the 3rd respondent ought to have referred the parties to the civil Court for establishing their rights in respect of the title of the rival claimants, but instead the 3rd respondent relied on certain fake and erroneous materials and effected the change of entries in the revenue records in favour of the 4th respondent. Therefore, the petitioner has chosen to challenge the proceedings of the 3rd respondent, dated 05.03.2019.

7. From the above factual narrative, it can be seen that the patta transfer was ordered by the 3rd respondent, the Tahsildar, Pattukottai Taluk and as against the order, appeal remedy is available before the Revenue Divisional Officer. In fact, further provision to avail the revisional remedy under the Patta Passbook Act is also available. Without exhausting such effective remedies available under the relevant Statute, the petitioner has



straightaway approached this Court, challenging the order of the 3rd respondent, which in the opinion of this Court is not maintainable at all.

8. According to the learned Counsel that in view of the violation of the principles of natural justice and also the title itself is being decided by the revenue authorities, the jurisdiction of this Court has been invoked. The said statement is not legally acceptable for entertaining the writ petition directly. It is always open to the petitioner to approach the higher authorities by availing the appeal and revisional remedies, assailing the order of the lower authority, but it is not open to the petitioner to invoke the powers of this Court exercisable under the extraordinary jurisdiction and maintain the writ petition in the circumstances of the case.

9. In view of the above, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar

To

1. The District Collector,
Thanjavur District,
Thanjavur.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Pattukottai, Thanjavur District.
3. The Tahsildar,
Pattukottai Taluk,
Thanjavur District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER (SR-2356[F] dated 29/01/2021)

Order made in
WP (MD) No.1259 of 2021 and
WMP (MD) Nos.1064,1066&1070 of 2021
27.01.2021

DSK

SRS/01.03.2021/3P/5C

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