



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.01.2021**

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

WEB COPY

W.P. (MD) No.677 of 2021

and

W.M.P. (MD) No.562 of 2021

Rajeshwari Home Developers India (P) Ltd.,
Annur,
through its Director Rajeswari,
D.No.73, Avinashi Road,
Annur Town, Avinashi Taluk,
Coimbatore District.

... Petitioner

Vs

1.The Additional District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

3.N.Srinivasan

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order of 1st respondent in Na.Ka.D6-35037-2013 dated 23-11-2020 and quash the same.

For Petitioner : Mr. (*) S.Meenakshi Sundaram
Senior Counsel for
Mr.V.Karthikeyan

For R1 & R2 : Mr.C.Ramesh
Special Government Pleader

ORDER

The short facts of this case are that the 3rd respondent herein had made an application before the Revenue Divisional Officer, Kovilpatti for correction of entries in the UDR scheme for the reason that the property to an extent of 1 acre of the land in S.No.280/6C and 281/3B had been purchased by his father, but the patta had been wrongly entered his father's name for a lesser extent of 54 cents.



2.The dispute as stated in the writ petition is that the extent of the land, which conveys the ownership to the petitioner company, has been varied at the instance of some third parties, which led the petitioner

to file an original suit in O.S.No.271 of 2013 before the District Munsif Court, Kovilpatti for permanent injunction against the 3rd respondent from interfering with the peaceful possession and enjoyment of the petitioner's property.

3.In the suit, it appears that the 3rd respondent has also made a counter claim seeking declaration, mandatory injunction and for recovery of possession and other consequential reliefs. The suit is still pending before the District Munsif Court, Kovilpatti. While matter stood thus, the District Revenue Officer, Tuticorin, has passed an order on 18.10.2013 adverse to the interest of the petitioner on erroneous appreciation of facts/claims. Being aggrieved by the order of the District Revenue Officer, dated 18.10.2013, the petitioner preferred a writ petition in W.P.(MD) No.18538 of 2013 before this Court. However, this Court, by order dated 05.09.2014, dismissed the writ petition. Challenging the same, Writ Appeal in W.A.(MD) No.1300 of 2014 was filed by the petitioner before this Court. A Division Bench of this Court allowed the writ appeal and disposed of the same with certain observations on 07.01.2019, by remitting the matter to the 1st respondent for fresh hearing, after giving sufficient opportunities to the parties.

4.In pursuance of the directions of the Division Bench of this Court, the 1st respondent has passed the impugned order in his proceedings dated 23.11.2020 and the present writ petition has been filed challenging the said proceedings.

5.Mr. (*) S.Meenakshi Sundaram learned Senior Counsel for Mr.V.Karthikeyan, appearing for the petitioner would point out certain infirmities in the order passed by the 1st respondent, particularly, he emphasised the fact that when the civil suit is pending between the parties, it is not for the 1st respondent to take a decision in the matter. Several grounds have been raised in the affidavit filed in support of the writ petition, assailing the impugned order.

6.This Court has perused the impugned order, dated 23.11.2020, the pleadings and the submission of the learned Senior Counsel for the petitioner.

7.At the outset, this Court is unable to appreciate as to how the writ petition is maintainable in the first place, in the face of clear direction passed by this Court in W.A.(MD) No.1300 of 2014, on 07.01.2019. In fact, the District Revenue Officer, Tuticorin, has



incorporated the entire order in the impugned proceedings and the same has to be extracted hereunder to appreciate as to how the writ petition is not to be entertained:

"1. The order of the learned Single Judge in W.P. (MD) No.18538 of 2013, dated 05.09.2014, is set aside. No costs.

2. The impugned order in writ petition in Na.Ka.No.D2/35057/2013, dated 18.10.2013, passed by the first respondent is quashed and the matter is remitted to the first respondent for fresh hearing and the first respondent shall pass an order after affording sufficient opportunity to both appellant as well as the third respondent and consider their case on merits. It is open to the appellant as well as the third respondent to raise all their objections and submit their documents before the first respondent. The first respondent shall pass an order in accordance with law and uninfluenced by any of the findings of this Court and the order passed by the first respondent will subject to the outcome of O.S.No.271 of 2013, on the file of the Principal District Munsif, Kovilpatti. The Civil Court can independently decided the question of title.

While rendering the judgment, we are not holding that the revenue authorities are not competent to decide the question of title based on admitted facts for effecting mutation of records. We are only holding that the revenue authorities are not competent to mutate the revenue records contrary to the provisions of Tamil Nadu Patta Pass Book Act, 1983. Similarly, when a question is raised about the fraudulent nature of transaction and if it is established by documents, which are not disputed, the revenue authorities are competent to correct the entries and restore the revenue records to its original stage, if they are convinced that change or mutation of revenue records was by playing fraud. Similarly correction of entries wrongly made during UDR is also permissible. However, in all instances, when correction of entries is called for, it shall be done only after hearing the person interested."

8.From the above, it could be seen that the petitioner was the appellant before the Division Bench and he invited the order from the Division Bench. Having invited the above order from the Division Bench, it does not lie in the mouth of the petitioner to approach this

Court once again, questioning the authority, who passed the order only in pursuance of the direction of the Division Bench.

9.When the authority has acted in pursuance of the direction of this Court that too by a Division Bench of this Court, this Court does not think that the present writ petition could be entertained,



even for a second by a single Judge. However, the learned Senior Counsel argued the case, as if the writ petition is maintainable. This Court does not find any merit for even ordering notice in the writ petition. When the Division Bench of this Court has given a direction to the District Revenue Officer, particularly at the instance of the petitioner herein such an act of the authority pursuant thereto cannot be questioned before the single Judge of this Court. This Court is of the considered view that the petitioner's attempt to get a relief from this Court in this writ petition is an abuse of process of Court.

10. Therefore, the Writ Petition stands dismissed as not maintainable. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

(*) CORRECTED ORDER

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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TO BE SUBSTITUTED WITH THE ORDER ALREADY DESPATCHED ON 10.02.2021

To

1. The Additional District Collector,
Thoothukudi District,
Thoothukudi.

2. The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

+1 CC to M/s.V.KARTHI KEYAN, Advocate (SR-1291[F] dated
20/01/2021)

+1 CC to M/s.GP (SR-1363[F] dated 20/01/2021)

W. P. (MD) No. 677 of 2021

19.01.2021

AP(25/02/2021) 4P 5C