



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.02.2021**

CORAM

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

W.P. (MD) No.2484 of 2021

and

W.M.P. (MD) No.2064 of 2021

WEB COPY

R.Gayathri Devi

.. Petitioner

Vs

1.The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.

2.The Tahsildar,
Vilathikulam, Tuticorin District.

3.The Zonal Deputy Tahsildar,
Vilathikulam, Tuticorin District.

4.R.Saran Kumar

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in Ni.Mu.A2/9128/2020 dated 22-01-2021 and quash the same and further directing the respondents 1 and 2 to relegate the parties to work out their grievance before the competent civil Court.

For Petitioner : Mr.M.P.Senthil

For R1 to R3 : Mr.R.Murugan

Additional Government Pleader

ORDER

The case of the petitioner is that there was a dispute in regard to the execution of the Will in respect of the property in question, which is to devolve on the petitioner and therefore, a legal notice was issued to the 4th respondent, who is making a rival claim and is none other than the brother of the petitioner. According to the petitioner, though he attempted for partition of the property in question amicably, there was no conciliatory action forthcoming from the 4th respondent.

2.In the meanwhile, the 4th respondent appears to have fraudulently created a Will, dated 11.12.2019 and approached the revenue officials for mutating the revenue records in his name. An enquiry was conducted by the 1st respondent and after the conclusion of the enquiry by the Revenue Divisional Officer concerned, patta was transferred and being aggrieved by the proceedings of the 1st respondent, dated 22.01.2021, the petitioner is before this Court.



3.The 1st respondent has gone beyond his jurisdiction and tested the veracity of the Will dated 11.12.2019 and went on to uphold the said Will. According to the petitioner, the 1st respondent has mechanically accepted the report of the 2nd respondent and therefore, the 1st respondent, according to the petitioner, ought to have ordered the parties to approach the civil Court for appropriate relief and he ought not to have decided for issuance of patta, when a serious dispute is existing between the petitioner as well as the 4th respondent.

4.This Court is not inclined to entertain this writ petition for the simple reason that time and again it has been emphasized that in patta matters, for all persons seeking either for issuance of patta and change of patta or cancel the patta, etc., alternative remedies, which are provided under the Tamil Nadu Patta Passbook Act, need to be exhausted. As against the impugned order, an effective revisional remedy is available under the Act, before the District Revenue Officer concerned.

5.In a matter like this, the competent authority to enquire and to take a comprehensive decision is only the revenue officials and in that view of the matter, as against the order passed by the 1st respondent, dated 22.01.2021, a revision would lie before the District Revenue Officer concerned. Instead of choosing to go before the District Revenue Officer concerned by filing a revision, the petitioner has chosen to invoke the writ jurisdiction of this Court.

6.In the said circumstances, this Court is of the view that this Writ Petition is not maintainable for the non-exhaustion of the effective alternative remedy available under the relevant statute.

7.The writ petition therefore stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

To

1.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

2.The Tahsildar,
Vilathikulam,
Tuticorin District.



3.The Zonal Deputy Tahsildar,
Vilathikulam,
Tuticorin District.

+1 CC to M/s.SPL GP (SR-5109[F] dated 15/02/2021)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-4764[F] dated 12/02/2021)

+1 CC to M/s.V.NIRMAL KUMAR, Advocate (SR-5187[F] dated
15/02/2021)

W.P. (MD)No.2484 of 2021
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SJ(CO)
KB(01.03.2021) 3P 7C