



WEB COPY



W.P.No.15082 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.15082 of 2015

and

M.P.Nos.1 to 3 of 2015

K.Mohan

...Petitioner

Vs.

1.The District Collector,
Thiruvannamali District,
Thiruvannamalai.

2. The Tahsildar,
Thiruvannamalai Taluk,
Thiruvannamalai.

3. V.Devaraj

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the first respondent by his proceedings No.Na.Ka.M4/13995/2013 dated 16.03.2015 and quash the order passed thereon.

For Petitioner : MrS.Mazhaimeni Pandian

For R1 to R3 : Mr.U.Bharanidharan

Additional Government Pleader



W.P.No.15082 of 2015

ORDER

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2. The case of the petitioner is that the petitioner and his brother acquired the property in Old S.No.187 and New S.No.211/1 of an extent of 11 acres 20 cents situated in Avoor Village from their parents through oral partition. Thereafter, a joint patta was issued in favour of the petitioner, his brother and his sister. While that being so, petitioner executed a settlement deed dated 17.02.2012 in favour of his wife, son and daughter. In the mean while, the third respondent by claiming right over the above said property, has filed a petition before the Revenue Divisional Officer to transfer the patta in his favour in respect of the above said property, pursuant to which, enquiry was conducted by the Revenue Divisional Officer and submitted a report before the District Revenue Officer. Based on the said report, the District Revenue Officer vide proceedings dated 07.11.2013, passed an order in favour of the third respondent. Due to which, the petitioner preferred an appeal before the first respondent on 18.11.2013. The first



W.P.No.15082 of 2015

respondent vide proceedings dated 16.03.2015 directed to grant patta in favour of legal heirs of one Parvathiammal i.e., the third respondent by cancelling the joint patta granted in favour of the petitioner and others after conducting appropriate enquiry between the parties. Challenging the same the present writ petition has been filed.

3. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, when this Court expressed its opinion that, the issue involved in the present case pertains to disputed questions of facts and is purely a civil dispute between the petitioner and the private respondent / third respondent and the same cannot be entertained under Article 226 of the Constitution, the learned counsel for the petitioner restricted his prayer and sought permission of this Court to file appropriate Suit before the Competent Civil Court to establish the title over the subject property. Further, the learned counsel for the private respondent has also not expressed any objection for the limited relief sought for by the petitioner.

4. Heard learned counsel on either side and perused the materials



W.P.No.15082 of 2015

available on record.

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5. In view of the aforesaid stand taken by the learned counsel for the petitioner, this Court, without interfering with the order under challenge, grants permission to the petitioner to file appropriate suit before the Jurisdictional Civil Court, to establish his title over the subject property. If such suit is filed, the jurisdictional Civil court shall consider the same and pass orders, without being influenced by any of the observations made in the present order under challenge. Further, liberty is granted to the petitioner to workout his remedy in accordance with law, subject to the outcome of the Suit.

6. With the above observations and directions, this Writ petition is dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

31.10.2022

RAP

Speaking Order : Yes/ No

Index : Yes/ No



W.P.No.15082 of 2015

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Thiruvannamalai.

M.DHANDAPANI, J.



WEB COPY



W.P.No.15082 of 2015

RAP

W.P.No.15082 of 2015

31.10.2022