IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.29875 of 2010 &

M.P.No.1 of 2015

1. Kasthuriammal
2. Rukmani Ammal ...Petitioners

... Vs ...

1. The District Collector of Kancheepuram District,
   Office of the District Collector, Kancheepuram,
   Kancheepuram District.

2. The Revenue Divisional Officer,
   Office of the Revenue Divisional Officer,
   Mathuranthakam Taluk, Kancheepuram District.

3. The Tahsildar of Cheyyur Taluk,
   Taluk Office, Cheyyur, Kancheepuram District.

4. C.Baburaj Reddiar

5. The Principal Secretary to the Government,
   Revenue Department.

6. The Commissioner of Revenue Administration
Chepauk, Chennai.
[R5 & R6 suo motu impleaded vider Order
dated 16.11.2021 made in W.P.No.29875 of 2010
by SMSJ]

...Respondents

Prayer:- Writ Petition filed, under the Article 226 of Constitution of India, to issue Writ of Certiorari to call for the records of the second respondent made in Na.Ka.No.2940/09/E, dated 24.09.2010 together with the proceedings in Na.Ka.No.44985/2009/Y dated 09.09.2009 on the file of the second respondent and quash the same.

For Petitioners : Mr.R.N.Joshi

For Respondents : Mr.D.Gopal
Government Advocate – R1 to R3, R5 & R6

Mr.M.Sivavarathan – R4

ORDER

This Writ Petition has been filed challenging the proceedings of the second respondent made in Na.Ka.No.2940/09/E, dated 24.09.2010 together with the proceedings in Na.Ka.No.44985/2009/Y dated 09.09.2009 on the file of the second respondent

2. The impugned notice issued by the Revenue Divisional Officer has been challenged on the basis of the objection raised by the fourth respondent for issuance of legal heir certificate. At the relevant point of time, there is no power of appeal before the Revenue Divisional Officer.

3. Though various issues have been pleaded in the Writ Petition, this Court is of the view that those pleadings are immaterial and irrelevant and the crux of the issue is with regard to the issuance of the legal heir certificate and entertaining of the appeal by the Revenue Divisional Officer. Based on the Common Order passed by this Court in Writ Petition in W.P.No.25247 of 2021 dated 12.08.2022, a Government Order has been passed in G.O.478 wherein a provision for appeal is also made applicable and the Order has also given prospective effect, the appeal power is vested with Revenue Divisional Officer prospectively.

Admittedly, in the present case, notice has been issued to the petitioner on 24.09.2009. At the relevant point of time, there is no provision for appeal to be heard by the Revenue Divisional Officer. The same view has been followed by this Court in **Palaniappan Vs. The**

Revenue Divisional Officer, Tirupathur and others reported in 2019 – 2 – L.W. 799. In such view of the matter, the notice issued by the Revenue Divisional Officer is set aside. The legal heir certificate is only a relation certificate and the same will not confer any right. It is also stated that a suit has already been filed before this Court in C.S.No.581 of 2010 for partition. In such view of the matter, only the Civil Court has to decide the rights of the parties based on the evidence adduced and not merely on the basis of the legal heir certificate.

4. With the above observations, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

28.10.2022

vrc

To,

1. The District Collector of Kancheepuram District,
   Office of the District Collector, Kancheepuram,
   Kancheepuram District.

2. The Revenue Divisional Officer,
   Office of the Revenue Divisional Officer,

Mathuranthakam Taluk, Kancheepuram District.

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   Revenue Department.

6. The Commissioner of Revenue Administration
   Chepauk, Chennai.

N.SATHISH KUMAR, J.

vrc

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