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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.21807 of 2015

and

MP No.1 of 2015

1. A. Periasamy

2. R. Durai

.... Petitioners

Versus

1. The District Collector,
Perambalur.

2. The Tahsildar
Veppanthattai Taluk
Perambalur District

3. The Sub Registrar
Office of the Sub Registrar
Veppanthattai
Perambalur District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 3rd respondent herein under Ref. No.323/15 dated 8.6.2015 and quash the same and consequently direct the 3rd respondent herein to register and release the document presented for registration by the 2nd petitioner for sale of his property measuring an extent of 120.77 sq. meters in Survey No.442/3, 479/1, 441/4 and 441/6 Udumbiyyam Village, Veppanthattai Taluk, Perambalur District in favour of the 1st petitioner.

For Petitioners

: Ms.AL. Gandhimathi

For Respondents

: Mr.Yogesh Kannadasan, Spl. GP

ORDER

This writ petition has been filed to quash the impugned proceedings issued by the 3rd respondent in Ref. No.323/15, dated 08.06.2015 and for a consequential direction to the 3rd respondent to register and release the document in favour of the 1st petitioner.



2. The case of the petitioners is that the second petitioner is the owner of the land in dispute and the first petitioner is the purchaser. While so, when the petitioners approached the third respondent / registering authority for registration and release of documents pertaining to the subject land, the same has been rejected by the 3rd respondent vide Proceedings in Ref. No.323/15, dated 08.06.2015 based on the Circular issued by the Inspector General of Registration as the said lands pertained to lands which were assigned in favour of Adi Dravidars. Aggrieved by the impugned proceedings, the petitioners have filed this writ petition as the said proceedings has been issued without assigning any reasons and no proper notice was issued to them.

3. Ms.AL. Ganthimathi, learned counsel for the petitioners submitted that originally as per revenue records patta has been issued in favour of the first petitioner and the said patta is not an Adi Dravidar (ADR) patta and it is a Ryotwari patta and, therefore, the third respondent could not restrain the first petitioner from selling his own property. Further, it is her case that no records have been shown to the effect that the said property falls under ADR patta. It is her further contention that without assigning proper reasons and without issuing proper notices, the impugned proceedings has been issued by the 3rd respondent / registering authority, which is not sustainable and sought for quashment of the said proceedings.

4. Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents submitted that the disputed lands form part of Adi Dravidar patta and the said refusal proceedings has been issued by the third respondent in terms of Section 22-A of the Registration Act, 1908. Further, he submitted that as against the refusal order, effective remedy is available to the petitioners before the appellate authority under Section 72 of the said Act and without availing such remedy, the petitioners have come forward with this writ petition which is not sustainable. Hence, he prays for dismissal of this writ petition.

5. Heard the submissions made by the learned counsels on either side and perused the materials available on record.

6. On perusal, it is clear that though the contention raised by the learned counsel for the petitioner that without assigning any reasons and without issuing proper notice, impugned order has been issued, the issue on hand involves disputed questions of fact. Since the issue involves disputed questions of fact, it cannot be decided by way of filing this writ petition. Further, as rightly pointed by the learned Special Government Pleader appearing for the respondents that as per Section 72 of the Registration Act, the petitioners are having an effective appeal remedy before the appellate Authority viz., Inspector General of Registration. Without



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approaching the appellate authority, the petitioner has filed this writ petition, which is impermissible and, therefore, this Court is not inclined to accede to the prayer of the petitioner. this Court is inclined to dismiss this writ petition.

7. In view of the aforesaid reasons, the writ petition stands dismissed. However, liberty is granted to the petitioners to file an appeal before the Appellate Authority viz., Inspector General of Registration in terms of Section 72 of the Registration Act., within a period of four weeks from the date of receipt of a copy of this order. If such appeal is filed by the petitioners, the appellate authority shall entertain the appeal and pass orders on merits in accordance with law. It is made clear that the period of pendency of this writ petition before this Court shall be excluded for the purpose of limitation, while entertaining appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The District Collector,
Perambalur.

2. The Tahsildar
Veppanthattai Taluk
Perambalur District

3. The Sub Registrar
Office of the Sub Registrar
Veppanthattai
Perambalur District.

+1 cc to Ms.AL. Gandhimathi, Advocate Sr.NO. 8918
+1 cc to Government Pleader Sr.NO. 9226

W.P. No.21807 of 2015

AJB(CO)
A.SK(28.02.2022)