IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.6414 OF 2022
AND
W.M.P.NOS.6500 & 6502 OF 2022

K.Palanisamy

... Petitioner

Vs

1. The Tahsildar,
   Sankari,
   Salem District.

2. K.Venkatachalam

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the order of the 1st Respondent dated 01.02.2022 in Na.Ka.2800/2021/1, and quash the same.

For Petitioner ... M/s.K.Selvaraj

For Respondents ... Mr.M.Murali,
Government Advocate

O R D E R

The present petition has been filed seeking the relief of quashment of the impugned order dated 01.02.2022 passed by the 1st Respondent herein.

2. Mr. M. Murali, learned Government Advocate takes notice for the 1st Respondent.

3. The case of the petitioner is that his father is the absolute owner of the lands in Survey Nos.61/13A3, 61/13A4 and

61/16A situated at Edanganasalai vVillage, Sankari Taluk, Salem District. However, there is no common pathway in the said lands of the petitioner. While being so, the 2nd Respondent who is the neighbour of the petitioner, had attempted to illegally trespass into the petitioner's lands to lay a common pathway in the said lands. When the same was objected and prevented by the petitioner, the 2nd Respondent approached the Revenue Divisional Officer, in order to lay the pathway in the petitioner's private property. Thereafter, the enquiry was conducted by the Revenue Divisional Officer, in conclusion of the same, the Revenue Divisional Officer had decided to lay the pathway in the petitioner's property which prompted the petitioner to file a Writ Petition in W.P.No.23509 of 2021, in which, the Revenue Divisional Officer was ordered to conduct a proper enquiry based on the petitioner's representation. Contrary to the said order, the 1st Respondent/Tahsildar had passed the impugned order dated 01.02.2022 to change the UDR records with respect to the subject lands in favour of the 2nd Respondent. Challenging the said order, the petitioner has come up with this Writ Petition.

4. Learned counsel for the petitioner submits that as per the provisions of G.O.Ms.No.385, Revenue Department, Dated 17.08.2004, Revenue Tahsildars have no jurisdiction to make any corrections or rectifications of any defects in the UDR Records and only the District Revenue Officers have jurisdiction to carry out the same. Hence, the impugned order of the 1st Respondent/Tahsildar being contrary to the said G.O, the order impugned in this Writ Petition is liable to be quashed and this Writ Petition may be allowed.

5. Learned Government Advocate appearing for the 1st Respondent submits that the petitioner may be permitted to file an appeal as against the order impugned in this Writ Petition, before the District Revenue Officer and without enlarging the said relief, the petitioner has prematurely rushed to this Court.

6. In view of the aforesaid stand of the respondents and also in considering the fact that the petitioner has not moved the District Revenue Officers by way of appeal against the impugned order, this Court, without interfering with the impugned order, permits the petitioner to file an appeal to the jurisdiction District Revenue Officer, within a period of two weeks from the date of receipt of a copy of this order. On such appeal being filed, the District Revenue Officer is directed to consider the same and conduct an enquiry by giving an opportunity of personal hearing to the petitioner as well as the 2nd Respondent and pass appropriate orders on the same, within a period of six weeks thereafter.

7. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

NHS

To

The Tahsildar,
Sankari,
Salem District.

+1cc to M/s.K.Selvaraj, Advocate, S.R.No.19228

+1cc to the Government Pleader, S.R.No.19905

W.P.No.6414 of 2022

RSI(CO)
RLP(13/06/2022)