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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.34204 OF 2012

AND

M.P.NOS.1 & 2 OF 2012

Tmt.Veronica

...Petitioner

Vs.

1. The District Collector,
Government of Puducherry,
Puducherry.

2. The Director of Settlement,
Directorate of Survey and Land Records,
Government of Puducherry, Puducherry.

3. P.Murthy

4. Tmt.Senthamil Selvi

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the Proceedings No.8531/ Rev/ C2/ SA/ 2011 dated 06.07.2012 of the District Collector, Puducherry in Settlement Appeal No.2/2011 and quash the same.

For Petitioner : M/s.L.Swaminathan

For Respondents R1 and R2: Mr.J.Kumaran
Additional Government Pleader

For Respondents R3 and R4: M/s.T.P.Manoharan

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the Proceedings No.8531/ Rev/ C2/ SA/ 2011 dated 06.07.2012 of the District Collector, Puducherry in Settlement Appeal No.2/2011 and quash the same.



2. The case of the petitioner is that, she is the Power of Attorney of one Louis Philip Gnanapragasam. The petitioner made a representation dated 23.03.2008 along with the necessary documents before the 2nd respondent for entering the name of one Nathan Mariapragasam in the Patta No.1024 N to rectify the mistake in the Settlement Register where the name of one Joseph Ass was faultily entered for the property in Re-survey No.140/123 located at Village No.36, Reddiyarpalayam Revenue Village, Puducherry. On receipt of the said representation, the Settlement Officer directed the petitioner to produce the entire Original Records pertaining to the Re-survey No.140/123(N) and 140/125(N). Thereafter, as per the direction of the Settlement Officer, the petitioner preferred an Appeal dated 26.02.2009 under Section 23(1) of the Pondicherry Settlement Act, 1970 before the 2nd respondent for rectification of the mistake. On receipt of the appeal, the 2nd respondent conducted an enquiry on 11.03.2009 and issued notice dated 08.04.2009 to nine persons including third and fourth respondents, however the 3rd and 4th respondents avoided and failed to appear for the enquiry even after providing several opportunities. Therefore, the 2nd respondent vide proceedings dated 07.01.2010 allowed the Appeal filed by the petitioner. Aggrieved by the said order dated 07.01.2010, the 3rd and 4th respondent preferred an Appeal dated 11.01.2010 before the 1st respondent and the 1st respondent passed an impugned order dated 06.07.2012, setting aside the order dated 07.01.2010 passed by the 2nd respondent and pursuant to the said impugned order, the Deputy Tahsildar (Settlement) had incorporated the name of the 3rd and 4th respondents as the owner of the disputed property. Hence, challenging the said order, the present Writ petition is filed.

3. The learned counsel appearing for the petitioner submitted that the impugned order was passed mechanically without issuing any Notice of hearing and without any jurisdiction as the District Collector had totally failed to consider the fact that the order of the 2nd respondent was passed only under Section 23(1)(a) of the Pondicherry Settlement Act, 1970, as against which there is no provision of Appeal under Section 21 of the Pondicherry Settlement Act, 1970. Hence, he submitted that, it would suffice, if this Court sets aside the order dated 06.07.2012 in Proceedings No.8531/Rev/C2/SA/2011 passed by the 1st respondent.

4. The learned counsel appearing for the 3rd and 4th respondent fairly conceded that the 1st respondent has no power to entertain the appeal filed by the 3rd and 4th respondents by invoking Section 21 of the Pondicherry Settlement Act, 1970 as against the order dated 07.01.2010 passed by the 2nd respondent under Section 23(1)(a). He further submitted that, they will



abide by the order of this Court. However, he prays for liberty to the 3rd and 4th respondents to workout the remedy in the manner known to law.

5. The Additional Government Pleader appearing on behalf of the 1st and 2nd respondents did not dispute the facts and submissions made by the learned counsel appearing on behalf of the 3rd and 4th respondents.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. Admittedly, the 2nd respondent passed an order dated 07.01.2010 by invoking the powers under Section 23(1)(a) of the Pondicherry Settlement Act, 1970 and the said order was challenged before the 1st respondent and therefore the present impugned order dated 06.07.2012 was passed. This Court perused the said Act and on perusal of the same, it reveals that, the 1st respondent has no jurisdiction to entertain the appeal preferred by the 3rd and 4th respondent as against the order dated 07.01.2010 passed by the 2nd respondent, as there is no provision for Appeal against the said order before the 1st respondent. Though very many arguments have been advanced, the whole case falls down on the ground that there is no provision of appeal, thereby, the 1st respondent is not vested with jurisdiction to entertain the appeal.

8. In view of the above, this Court is inclined to set aside the order dated 06.07.2012 passed by the 1st respondent and the present Writ Petition is allowed. However, liberty is granted to the 3rd and 4th respondents to workout the remedy in the manner known to law. No cost. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skt

To

1. The District Collector,
Government of Puducherry,
Puducherry.



2. The Director of Settlement,
Directorate of Survey and Land Records,
Government of Puducherry, Puducherry.

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+1cc to M/s.L.Swaminathan, Advocate, S.R.No.11511
+1cc to the Government Pleader, S.R.No.11371

W.P.No.34204 of 2012
and
M.P.Nos.1 & 2 of 2012

SSD (CO)
PM/04/04/2022