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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.39584 of 2015

and

M.P.No.1 of 2015

R.Srinivasan

.. Petitioner

- vs -

1.The Sub Collector-cum-
Revenue Divisional Officer,
Ariyalur.

2.The Tahsildhar,
Ariyalur, Ariyalur District.

3.A.Padmanaban

4.D.Arjunan

5.Ragupathy

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order of the 1st respondent made in O.MU/A5/437/2015 dated 04.11.2015 and quash the same as illegal, arbitrary, ultra vires and direct the 1st respondent to delete the name of the 3rd respondent as pattadar in respect of Old S.No.5/10, New S.No.5/10A in Walajanagaram Village, Ariyalur Taluk and District in the order of the 2nd respondent, Ariyalur made in Na.Ka.No.5071/1413 dated 23.03.2004.

For Petitioner : Mr.D.Rajagopal

For Respondents-1 & 2 : Mr.A.Anandan
Government Advocate

For Respondent-3 : Mr.T.Arokiadass

For Respondent-4 : Mr.R.Gokulakrishnan



ORDER

The writ petition has been filed challenging the order of the first respondent made in O.MU/A5/437/2015 dated 04.11.2015 and for a consequential direction to the first respondent to delete the name of the third respondent as pattadar in respect of Old S.No.5/10, New S.No.5/10A in Walajanagaram Village, Ariyalur Taluk and District in the order of the second respondent, Ariyalur made in Na.Ka.No.5071/1413 dated 23.03.2004.

2. The case of the petitioner is that the petitioner claims to be the owner of the property in Old Survey No.5/10, New Survey No.5/10A in Walajanagaram Village, Ariyalur Taluk, whereas, the third respondent/Padmanaban is claiming title over the very same property. One Arunachalam, who is the maternal grandfather of the petitioner filed a partition suit in O.S.No.160 of 1986. The said suit was dismissed, against which, he preferred an appeal in A.S.No.69 of 1989 before the Sub Court, Ariyalur. The learned Subordinate Judge, Ariyalur by judgment dated 18.08.1992, partly allowed the appeal. Pursuant to the decree dated 18.08.1992, the third respondent's father, namely, Iyemperumal filed an application before the Tahsildar, Ariyalur. The Tahsildar issued an order dated 23.03.2004 granting joint patta in the name of third respondent's father and petitioner's grandmother, in view of the fact that the petitioner's grandfather died in the meantime. In the meanwhile, the fourth respondent filed an appeal on 16.06.2004 against the order of the Tahsildar dated 23.03.2004. The said appeal was rejected by the Revenue Divisional Officer on 31.01.2008, against which, the fourth respondent filed a revision before the District Revenue Officer on 02.06.1998, who in turn, had rejected the revision by an order dated 18.09.2008. Thereafter, the third respondent filed a writ petition before this Court in W.P.No.4926 of 2011 seeking a mandamus to the second respondent to remove the name of the fourth respondent herein. The said writ petition was allowed on 07.03.2012 with a direction to the second respondent to restore the original position as per the order dated 23.03.2004 and without prejudice to the rights of the fourth respondent to contest the question of title before the Civil Court. Since the petitioner was not made as a party in the writ petition and his property was involved in the said issue, he filed a petition before this Court in M.P.No.1 of 2012 in W.A.SR.No.69730 of 2012 seeking to grant leave to file an appeal against the order dated 07.03.2012. The Hon'ble Division Bench of this Court, by an order dated 08.12.2014 dismissed the petition with a liberty to the petitioner to challenge the order dated 23.03.2004 before the first respondent. Accordingly, the petitioner preferred an appeal before the first respondent and



the same was rejected by the first respondent on 04.11.2015. Challenging the impugned order dated 04.11.2015, the present petition is filed.

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3. The learned counsel appearing for the petitioner submitted that as against the order passed by the first respondent/Revenue Divisional Officer, in terms of Section 12 of the Tamil Nadu Patta Passbook Act, an effective remedy available is to file a civil suit before the appropriate jurisdictional court or to file a Revision under Section 13 of the said Act before the District Revenue Officer and therefore, the petitioner may be permitted to workout his remedy in the manner known to law.

4. The learned Government Advocate appearing for the official respondents as well as the learned counsels appearing for the private respondents have no objection for the said order being passed.

5. Considering the submissions on either side and on a perusal of records, it is seen that, on earlier round of litigation, the other affected parties have filed a suit in O.S.No.61 of 2009 and the same is pending. The petitioner has filed a petition before this Court in M.P.No.1 of 2012 in W.A.SR.No.69730 of 2012 seeking to grant leave to file an appeal against the order dated 07.03.2012 passed in W.P.No.4926 of 2011. The Hon'ble Division Bench of this Court, by an order dated 08.12.2014 dismissed the writ petition with a liberty to the petitioner to challenge the order dated 23.03.2004 before the first respondent. Accordingly, the petitioner preferred an appeal before the first respondent. The first respondent vide impugned order dated 04.11.2015 had rejected the claim of the petitioner directing him to work out his remedy before the appropriate Civil Court. As against the order passed by the first respondent/Revenue Divisional Officer, an effective remedy available is to file a civil suit before the appropriate jurisdictional court or to file a Revision under Section 13 of the said Act before the District Revenue Officer. Without availing the said remedies, filing this writ petition is not maintainable.

6. In view of the above, the petitioner is granted liberty to file an appropriate suit before the jurisdictional Civil Court or to avail any other remedy available to them under law. If the petitioner succeeds in the Civil proceedings, further



liberty is granted to the petitioner to file an appropriate application before the District Revenue Officer, who is a revisional authority and the said District Revenue Officer shall consider the said application and pass appropriate orders, after providing opportunity to the aggrieved parties, if any.

7. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

1.The Sub Collector-cum-
Revenue Divisional Officer,
Ariyalur.

2.The Tahsildhar,
Ariyalur,
Ariyalur District.

+1cc to Mr.D.Rajagopal, Advocate SR.No.33475

+1cc to M/s.Dass Viswa Associates, Advocate SR.No.33810

+1cc to Government Pleader SR.No.34608

W.P.No.39584 of 2015
and
M.P.No.1 of 2015

AJB (CO)
GMY (01/07/2022)