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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15728 of 2020

Karuppaiya

...Petitioner

Vs.

1. The Tahsildar,
Veppur Taluk,
Cuddalore District.

2. Palaniyammal

3. Ramalingam

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records on the file of the 1st respondent herein relating to the 1st respondent's impugned order in Na.Ka.A1/1152/2020, dated 11.09.2020 and quash the same as illegal and consequently direct the 1st respondent to maintain the status quo.

For Petitioner : Mr.B.Ganesha Moorthy

For Respondents : Mr.M.Murali, GA, for R1
: Mr.G.Murugendran, for R2 & R3

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the entire records of the order dated 11.09.2020 passed by the 1st respondent in Na.Ka.A1/1152/2020, quash the same and consequently direct the 1st respondent to maintain the status quo.

2. The case of the petitioner is that, the maternal grandmother of the petitioner, one Palaniyammal executed a registered Settlement deed dated 25.09.1984 in Doc.No.1338/1984 in respect of the properties comprised in S.Nos.38/3, 41/8, 39/1, 38/15, 94/9, 41/9, 91/4, 198/1, 198/2 and 198/3, measuring



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various extent of lands, situated at Keezhakurichi Village to and in favour of the petitioner and another Settlement deed dated 29.03.1998 in Doc.No.321/1988 in respect of the properties comprised in S.Nos.224/7, 224/9, 224/3, 205/4, 220/6, 210/1, measuring various extent of lands, situated at Pa.Kothanoor Village, Cuddalore District and also for the properties comprised in S.Nos.30/3, 79/4, 44/2 and 92/3, measuring various extent of lands, situated at Keezhakurichi Village was also executed to and in favour of the petitioner and his brothers, namely, Samidurai and Pazhanivel. Thereafter, the petitioner obtained patta in his favour in respect of the above said properties. Whiles, the 2nd respondent, wife of the petitioner's uncle one Periyasamy and her brother / 3rd respondent herein started to disturb the possession of the petitioner. Therefore, the petitioner and his brothers filed a Suit in O.S.No.16 of 2000 on the file of the I Additional District Munsif Court, Virudhachalam, for declaration and permanent injunction as against the 2nd and 3rd respondents and the same was decreed in favour of the petitioner, vide decree dated 25.07.2014.

3. It is the further case of the petitioner that, the 2nd and 3rd respondent, being aggrieved by the said decree dated 25.07.2014, filed an Appeal suit in A.S.No.35 of 2014 on the file of the Principal Sub Court, Virudhachalam and the same was allowed, vide order dated 27.08.2019 and the decree passed in O.S.No.16 of 2000 was set aside. Aggrieved by the said order, the petitioner has filed Second Appeal before this Court in SA.SR.No.5566 of 2020 and the same is yet to be numbered. Whiles, the petitioner made a representation dated 10.03.2020 before the 1st respondent, not to transfer the patta in respect of the above said lands to the name of the private respondents. However, no orders have been passed on the same. While such being the case, the 2nd respondent executed a registered Sale deed dated 30.05.2020 in Doc.No.729 of 2020 in respect of the disputed lands to and in favour of 3rd respondent on the file of the Sub Registrar, Vallam, Tindivanam and thereafter, the 3rd respondent made a representation dated 11.06.2020 for issuance of patta in his favour, based on the order dated 27.08.2019 passed in A.S.No.35 of 2014. Immediately after knowing the same, the petitioner made a detailed representation dated 28.08.2020 to the Sub Registrar, Vallam, Tindivanam, seeking cancellation of the above said sale deed dated 30.05.2020 and another representation dated 28.08.2020 to the 1st respondent. However, the 1st respondent, without conducting enquiry and without perusing the revenue records has mechanically passed an order dated 11.09.2020 in Na.Ka.A1/1152/2020, by including the name of



the 3rd respondent as joint pattadar in the patta in respect of the above disputed lands. Hence, challenging the same the present Writ petition is filed.

4. Learned counsel for the petitioner fairly submitted that, though the patta in favour of the petitioner in respect of the above disputed lands was cancelled based on the order dated 27.08.2019 passed in the A.S.No.35 of 2014, however, the petitioner has filed Second Appeal before this Court and the same is yet to be numbered. Further, learned counsel for the petitioner fairly submitted that, as against the order dated 11.09.2020 passed by the 1st respondent, there is an effective Appeal remedy available before the Revenue Divisional Officer in terms of the Section 12 of the Patta Passbook Act (in short 'Act'). Hence, he prays this Court to grant liberty to the petitioner to file an Appeal petition before the Revenue Divisional Officer.

5. Learned counsel appearing on behalf of the 2nd and 3rd respondent has no serious objection for the limited relief sought for by the petitioner, However, he submitted that, this Court may issue direction to the Jurisdictional Revenue Divisional Officer to consider the Appeal to be filed by the petitioner and pass orders on the same, after affording opportunity to the private respondents to participate in the Appeal proceedings.

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

7. In respect to the dispute, the petitioner has filed Second Appeal before this Court in SA.SR.No.5566 of 2020 and the same is yet to be numbered and processed. However, it is pertinent to note that, as against the order dated 11.09.2020 passed by the 1st respondent, there is an effective Appeal remedy available before the concerned jurisdictional Revenue Divisional Officer in terms of the Section 12 of the Patta Passbook Act. Therefore, this Court without interfering with the order under challenge, grants liberty to the petitioner to file an Appeal before the Jurisdictional Revenue Divisional Officer in terms of Section 12 of the Patta Passbook Act. If such appeal petition is filed, the Jurisdictional Revenue Divisional Officer is directed to consider the same on merits and pass orders in accordance with law within a period of twelve week from the date of filing of said Appeal petition, after affording opportunity of hearing to the petitioner and the private respondents.



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8. With the aforesaid direction, this Writ Petition is disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Sub Registrar
Vallam
Tindivanam
2. The Judrisdictional Revenue Divisional Officer
Vepur, Cuddalore District
3. The Tahsildar,
Veppur Taluk,
Cuddalore District.

+1 CC to The Special Government Pleader sr 30966, 30858.
+1 CC to Mr.G.Murugendran, Advocate sr 32184(21/06/2022)

W.P.No.15728 of 2020

SKM(CO)
SP(03/06/2022)