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W.P.No.27554 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27554 of 2022

And

W.M.P.Nos.26801 and 26802 of 2022

P.Ponnusamy

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Pollachi Road,
Dharapuram,
Tiruppur – 641 603.

2.The Thasildhar,
Dharapuram Taluk Office,
Dharapuram,
Tiruppur – 638 656.

3.The Firka Surveyor,
Alangiyam Firka,
Alangiyam,
Dharapuram Taluk,
Tiruppur District.

4.Manivasasuthevan

5.Gawthama Sendhil Varman

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the records pertaining to the



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proceedings made in Na.Ka.No.3172/2022/A dated 27.07.2022 issued by the first respondent and to quash the same as illegal and unsustainable.

For Petitioner : Mr.Karthikei Balan

For Respondents : Mr.U.Bharanidharan for R1 to R3
Additional Government Pleader
R4 & R5 – No Appearance

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records pertaining to the proceedings made in Na.Ka.No.3172/2022/A dated 27.07.2022 issued by the first respondent and to quash the same as illegal and unsustainable.

2.The learned counsel appearing for the petitioner submitted that the petitioner and his son Jagadeesh Kumar are the absolute owners of the disputed property and they sold part of their property to M/s.Arunachalam Spinning Mills Private Limited. Thereafter, the petitioner examined the online status of his patta and was shocked to see the inclusion of the names of respondents 4 and 5. Hence, he made representation to the second respondent seeking to remove the names of respondents 4 and 5 from patta.



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3.The learned counsel appearing for the petitioner further submitted that thereafter, the petitioner came to know that respondents 4 and 5, taking advantage of the inclusion of their names in the patta, tried to alienate the property and hence, the petitioner issued legal notice dated 21.04.2022, to the Sub Registrar asking them not to register any document or sale deed, and the same was forwarded to the District Revenue Officer and the District Revenue Officer vide proceedings dated 30.04.2022 directed the second respondent to register the objection raised by the petitioner and to conduct enquiry. Thereafter, the Deputy Thasildar conducted enquiry and passed an order dated 07.05.2022 removing the names of respondents 4 and 5 from patta.

4.The learned counsel appearing for the petitioner further submitted that thereafter, respondents 4 and 5 filed appeal before the first respondent and the first respondent passed the impugned order. The learned counsel further submitted that if at all respondents 4 and 5 have any grievance, they have to file application before the second respondent in terms of Section 10 of the Tamil Nadu Patta Passbook Act, instead, they have filed appeal before the



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first respondent. The learned counsel further submitted that the petitioner has already instituted a suit as against respondents 4 and 5 in O.S.No.558 of 2022 on the file of the III Additional District Munsif, Dharapuram and when civil suit is pending, the respondents 1 and 2 have no right to decide the issue.

5.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that as per Section 4 of the Tamil Nadu Patta Passbook Act, when civil suit is pending, the Revenue Officials have no power to decide the issue.

6.Though the names of the private respondents were printed in the cause list, there is no representation for the private respondents. However, this Court is not inclined to pass any adverse order as against the private respondents.

7.Perusal of records disclose that the petitioner and his son claims that they are the absolute owners of the disputed property and they sold part of their property to M/s.Arunachalam Spinning Mills Private Limited. Thereafter, the petitioner came to know about the inclusion of the names of respondents 4 and 5 in the patta in respect



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of his property. Hence, he made representation to the second respondent seeking to remove the names of respondents 4 and 5 from patta.

8.Perusal of records further disclose that the petitioner came to know that respondents 4 and 5, taking advantage of the inclusion of their names in the patta, tried to alienate the property and hence, the petitioner issued legal notice dated 21.04.2022, to the Sub Registrar asking them not to register any document or sale deed and the same was forwarded to the District Revenue Officer and the District Revenue Officer vide proceedings dated 30.04.2022 directed the second respondent to register the objection raised by the petitioner and to conduct enquiry. Thereafter, the Deputy Thasildar conducted enquiry and passed an order dated 07.05.2022 removing the names of respondents 4 and 5 from patta. Thereafter, respondents 4 and 5 filed appeal before the first respondent and the first respondent passed the impugned order.

9.Further, the petitioner has already instituted suit as against respondents 4 and 5 in O.S.No.558 of 2022 on the file of the III Additional District Munsif, Dharapuram and when civil suit is pending,



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the respondents 1 and 2 have no right to decide the issue.

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10.In view of the above, the impugned proceedings dated 27.07.2022 passed by the first respondent is not sustainable one and the same is hereby set aside. Liberty is granted to the petitioner as well as the private respondents to agitate the issue before the civil Court where civil suit is pending. The succeeding party may make appropriate application before the Thasildar for mutation of revenue records.

11.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

11.11.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Pollachi Road,
Dharapuram,
Tiruppur – 641 603.

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2.The Thasildhar,
Dharapuram Taluk Office,
Dharapuram,
Tiruppur – 638 656.

3.The Firka Surveyor,
Alangiyam Firka,
Alangiyam,
Dharapuram Taluk,
Tiruppur District.

M.DHANDAPANI,J.
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