



W.P.Nos.27894 & 29667 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.Nos.27894 & 29667 of 2022

and

W.M.P.Nos.27187, 29052 & 29053 of 2022

Kamal Basha

. . . Petitioner in both WPs

Vs.

1. The District Revenue Officer,
Kallakurichi,
Kallakurichi District.

2. The Revenue Divisional Officer,
Kallakurichi,
Kallakurichi District.

3. Mohamed Ali,

4. Ansar Ali,

5. Sartaj Begum,

6. Jeelani Begum,

7. Kathumbi,

8. Moosa

. . . Respondents in both WPs

1/10



W.P.Nos.27894 & 29667 of 2022

Prayer in W.P.No.27894 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate writ or order or direction in the nature of writ, calling for records of the 1st respondent dated 26.09.2022 in Na.Ka.B3/17308/2022 and quash the same.

Prayer in W.P.No.29667 of 2022: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate writ or order or direction in the nature of writ, calling for records of the 1st respondent dated 19.10.2022 made in Pa.Mu.B3/17308/2022 and quash the same.

In both WPs :

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondent : Mr.U.Baranidharan,
Additional Government Pleader for R1 & R2.

: Mr.P.Sathish Kumar for R3 to R7

COMMON ORDER

Since, the issue involved in the above Writ Petitions are one and the same, both petitions are taken up for final disposal by way of a common order.



W.P.Nos.27894 & 29667 of 2022

2. The Writ Petition in W.P.No.27894 of 2022 has been filed seeking the relief of quashment of the impugned notice dated 26.09.2022 which was issued by the 1st respondent.

3. The Writ Petition in W.P.No.29667 of 2022 has been filed seeking the relief of quashment of the impugned order dated 19.10.2022 which was passed by the 1st respondent.

4. It is the case of the petitioner that his father had purchased the property from one Fathima Beevi, who executed the said sale deed on behalf of her minor son Syed Mehaboob on 15.09.1942 and since then the petitioner's father and, thereafter, the petitioner has been in possession and occupation of the property. While so, the said Syed Mehaboob filed O.S. No.129/1957 against the petitioner's father claiming possession and damages for the said property in occupation of the petitioner's father, which was initially decreed ex-parte, only to be set aside and adjudicated later on contest and the suit came to be dismissed on merits by judgment dated 15.04.1959, which has become final.



W.P.Nos.27894 & 29667 of 2022

5. In spite of the above, the daughters of Syed Mehaboob sought for patta and are trying to alienate the property, which prompted the petitioner to file W.P.No.4290 of 16 in which this Court passed directions to the registering authorities, which resulted in the denial of registration of the document. The appeal filed against the order in the writ petition was also dismissed. However, the daughters of Syed Mehaboob, tried to register a sham and nominal sale agreement in favour of the 4th respondent against which W.P. No.12115 of 2020 was filed by the petitioner and upon directions of this Court to conduct enquiry, the Joint Sub Registrar II conducted enquiry and refused registration of the document, which has since been confirmed by the District Registrar in the appeal. However, colluding with the registration officials, respondents 3 to 6 have registered a sale deed dated 28.04.2021 in Doc.No.1763/2021 and the Joint Sub Registrar II, in collusion registered the said document, which made the petitioner to file a representation to the revenue authorities not to mutate the revenue records. Pending the above, the purchaser of the property, viz., the 3rd respondent, approached the 2nd respondent to cancel the patta issued to the petitioner by filing application on 18.02.2022 and in pursuance to the said application,

4/10



W.P.Nos.27894 & 29667 of 2022

the petitioner has been called upon by the 1st respondent for enquiry vide the impugned notice dated 26.09.2022. However, without considering the earlier orders and the decree in the suit, the 1st respondent proceeded with the enquiry, which resulted in the petitioner filing W.P. No.27894/2022 in which orders of stay was granted by this Court. However, without any respect to the order of stay granted by this court, the 1st respondent has passed the impugned final order dated 19.10.2022, which resulted in the filing of the petition in WP No.29667 of 2022.

6. Learned counsel for the petitioner submits that the issue involved in the present case has already been adjudicated by the revenue authorities holding that the issue pertains to the title to the property and the same can be adjudicated only by the competent civil court and without considering the orders of stay granted by this Court, the 1st respondent having no jurisdiction to decide the issue with regard to the title to the property, had canceled the Patta which was granted in favour of the petitioner with respect to the above said property vide the impugned order dated 29.10.2022. It is further submitted that the dispute between the parties pertain to the title to the



W.P.Nos.27894 & 29667 of 2022

property, for which, proper remedy available is to approach the competent civil court, however, without exhausting such remedy, filing of application before the revenue authorities for mutation of revenue records is wholly unsustainable. Therefore, the orders impugned in present petitions are liable to be quashed and these Writ Petitions may be allowed.

7. Learned counsel appearing for the private respondents submits that the petitioner has to establish his title to the property before the appropriate forum and cannot under the guise of representation seek to nullify the order passed by the 1st respondent, which is on the basis of the documents placed. Therefore, this Writ Petition deserves to be dismissed.

8. This Court heard the learned counsel on the either side and perused the materials available on record.

9. A perusal of the materials on record reveals that the issue involved in the above Writ Petitions pertains to the title to the property, which can be adjudicated only by the competent civil Court, there being no jurisdiction for



W.P.Nos.27894 & 29667 of 2022

the revenue authorities to deal with the same. Despite the order of interim stay granted by this Court in W.P.No.27894 of 2022 as against the impugned enquiry notice passed by the 1st respondent, the present impugned order dated 29.10.2022 has come to be passed which cannot be allowed to subsist. Further, the issue involved in the present petitions being civil in nature, rendering any opinion on the merits of the case would adversely affect the interest of the petitioner as well as the respondents. Therefore, the appropriate remedy for the parties would be to approach the competent civil court. In such view of the matter, the impugned notice and the consequential order which came to be passed by the 1st respondent are liable to be set aside.

10. The proper course open for the private respondents is to approach the Competent Civil Court by filing appropriate suit and it cannot be adjudicated by the Revenue Authorities. In such view of the matter, liberty is granted to the private respondents to file appropriate suit before the competent civil court and in event of succeeding in the suit, the private respondents are at liberty to file appropriate application before the revenue



W.P.Nos.27894 & 29667 of 2022

authorities for mutation of revenue records, which shall be considered on the basis of the order/decreed that may be passed in the suit.

11. Accordingly, the orders impugned in these Writ Petitions are set aside and these Writ Petitions are allowed in the above terms. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

22.11.2022

NHS

Index : Yes / No

Internet : Yes / No



W.P.Nos.27894 & 29667 of 2022

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- To
1. The District Revenue Officer,
Dharmapuri District,
Dharmapuri.
 2. The Sub Collector/Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri
 3. The Tahsildar,
Karimangalam Taluk,
Dharmapuri District,
Dharmapuri
 4. The Village Administrative Officer,
Kelavalli Village,
Kaarimangalam Taluk,
Dharmapuri District.



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W.P.Nos.27894 & 29667 of 2022

M.DHANDAPANI, J.

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W.P.Nos.27894 & 29667 of 2022

22.11.2022