



W.P.(MD)No.18544 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.12.2022

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.18544 of 2013

and

M.P.(MD).Nos.1 & 2 of 2013

SP.D.Karuppaiah

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Tashildar,
Karaikudi,
Sivagangai District.

3.Mr.T.Selvaraj,
Tahsildar,
Karaikudi,
Sivagangai District.

4.S.Shanmugasundaram

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.A2/12616/12 dated 28.02.2013 on the file of the 2nd respondent and quash the same as illegal.



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For Petitioner :Mr.S.Rajasekar
For Respondents :Mr.M.Prakash
Additional Government Pleader for R1 to R3
:Mr.R.Sundar Srinivasan for R4

ORDER

The challenge in this writ petition is to alleged proceedings of the Tahsildar dated 28.02.2013.

2.The case of the petitioner is that the petitioner had been issued with the legal heirship certificate by the Tahsildar, Karaikudi in his proceedings dated MU.MU.A4/1895/2003. The 4th respondent herein being a 3rd party to the petitioner's family had allegedly made a complaint to the District Collector on 02.11.2012 and the District Collector had called upon the Tahsildar to submit a report. The 2nd respondent under the impugned proceedings, without issuing any notice to the petitioner had made various allegations against the petitioner as if the petitioner had obtained the legal heirship certificate by fraud and manipulation. Therefore, the said report has to be scrapped, as the same has been issued can be done in violation of the principles of natural justice.



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3.Countering his arguments, the learned counsel for the 4th respondent would submit that having obtained a legal heirship certificate, including a name of the non-existing person, the petitioner is trying to interfere with the possession of their property. Therefore, he had enquired. It was found that the Tahsildar had included a non-existing person in the legal heirship certificate. Therefore, he had made a representation to the District Collector/the 1st respondent to enquire into this issue. Based on his complaint, District Collector had called upon a report from the Tahsildar. The Tahsildar had conducted an enquiry and based on his enquiry, he had submitted his recommendation, what is impugned in this writ petition. The order impugned is only a recommendation and not a final order. Therefore, the writ petition itself would not be maintainable.

4.I have considered the rival submissions made by the learned counsel appearing on either side.

5.As rightly pointed out by the learned counsel for the respondent, what has been impugned is only a recommendation of the 2nd respondent to



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the 1st respondent, on the complaint received from the 4th respondent. It is for the 1st respondent to conduct an enquiry, on receipt of this impugned recommendation before him and pass appropriate orders.

6.In view of the same, I direct the 1st respondent to dispose of the complaint made by the 4th respondent dated 02.11.2012, which culminated into the proceeding in Na.Ka.B5/31247/2012 dated 23.11.2012 and pass appropriate orders on merits and in accordance with law, after giving due opportunity to all parties, including the petitioner and the 4th respondent herein within a period of 12 weeks from the date of receipt of a copy of this order.

7.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2022

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



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K.KUMARESH BABU, J.

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