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W.P.No.29675 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29675 of 2022 &
W.M.P.No.29063 of 2022

N.Sendamaraai

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Brough Road,
Erode – 638 001,
Erode District.

2.The Revenue Tahsildar,
Erode Taluk,
Erode District.

3.Shanmugam @ V.O.Lakshmi Narayanan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notices in Na.Ka.No.4685/2022/A4 dated 26.09.2022 and 26.10.2022 passed by the first respondent, quash the same and consequently forbear the respondents from interfering with the petitioner right to property mentioned in Patta No.386, R.S.No.2/1A, Suriyampalayam Village, Erode Taluk and District.



For Petitioner : Mr.N.Manoharan
For Respondents 1 & 2 : Mr.E.Sundaram,
Government Advocate
For Respondent 3 : Mr.B.M.Subash

ORDER

The enquiry notice issued by the Revenue Divisional Officer in the proceedings dated 26.09.2022 & 26.10.2022 under the provisions of the Patta Passbook Act is under challenge in the present writ petition.

2. No writ petition against an enquiry notice is entertainable, unless it is tainted with the allegation of malafides or issued by an authority having no jurisdiction.

3. In the context of the limited scope of entertainability of the writ petition against the notice, the present case is to be considered.

4. The facts in nutshell to be considered is that the petitioner instituted a civil suit in respect of the subject property described in the present writ petition in O.S.No.57/1996. The suit was instituted on the file of the learned



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First Additional Sub Court, Erode for declaration of title and for permanent injunction. The suit was dismissed against the writ petitioner on 22.07.2003 and the petitioner preferred an appeal suit in A.S.No.24/2003 on the file of the Additional District Court, Erode. The Additional District Court, Erode reversed the judgment and decree passed by the trial court on 10.02.2004. Accordingly, the declaration of title was granted in favour of the petitioner. The defendant in the suit filed S.A.No.2125/2004. The High Court dismissed the second appeal on 20.10.2014. Against the order passed in the second appeal, the defendant in the suit filed SLP(C).No.4504/2015 and the Supreme Court dismissed the SLP on 27.02.2015. Even after the dismissal of the SLP, the defendant filed review application in SR27088/2015 along with CMP.No.16915/2016. The said review petition was also rejected by this Court on 20.02.2020.

5. Learned counsel appearing on behalf of the petitioner mainly contended that after securing the declaration of title, the patta granted in favour of the petitioner on 27.12.2006 was confirmed, since the declaration of title was granted in favour of the petitioner by the first appellate court, High Court and the Supreme Court. The defendant died on 13.01.2022 and



the third respondent thereafter disputed the title of the petitioner based on a Will executed by the defendant in the suit on 24.06.2019. As on 2019, the defendant herself was not holding any title, in view of the declaration issued in favour of the writ petitioner in the appeal suit by the District Court.

6. The District Court, Erode in A.S.No.24/2003 declared the title in favour of the writ petitioner on 10.02.2004 which was confirmed by the High Court in Second Appeal in the year 2014 and thereafter, confirmed by the Supreme Court. Thus, in the year 2019, the defendant in the original suit viz., one Dhanalakshmi was not holding any valid title and therefore, the third respondent cannot claim any title based on the Will executed by the original defendant, Dhanalakshmi in the year 2019.

7. Be that as it may, prima facie there is no reason to issue notice to the writ petitioner, since the title of the petitioner has already been declared by the Competent Civil Court of law and confirmed by the High Court and the Supreme Court. Thus, the authority who issued the impugned notice lacks jurisdiction on account of the declaration of title granted by the competent civil court of law in favour of the writ petitioner.



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8. In view of the facts and circumstances, the impugned notices issued by the first respondent in proceedings dated 26.09.2022 & 26.10.2022 are quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2023

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Index : Yes/No

Speaking order/Non Speaking Order

Neutral Citation : Yes/No



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S.M.SUBRAMANIAM, J.

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