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W.A.No.3424/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 08-12-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.3424 of 2023

T.Subramanian

...

Appellant

-VS-

1.The District Revenue Officer,
Perambalur District,
Perambalur.

2.The Sub Collector,
Perambalur,
Perambalur.

3.The Tahsildar,
Kunnam Taluk,
Perambalur District.

4.The Assistant Engineer (O&M),
Tamil Nadu Generation and Distribution Corporation
(TANGEDCO), Ariyalur West,
Ariyalur District.

Sengamalai (Died)

5.Muruvayee

6.Selvarasu

7.Rani



8.Ramar
9.Krishnamurthy

...

Respondents

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Appeal under Clause 15 of the Letters Patent against the order, dated 28.07.2022, passed in W.P.No.15998 of 2017.

For Appellant : Mrs.M.Janani

For Respondents 1 to 4 : Mr.A.Selvendran,
Spl.Govt.Pleader.

For Respondents 5 to 9 : No appearance

JUDGMENT

(By *S.Vaidyanathan,J.*)

This appeal has been filed challenging the order of the learned single Judge, dated 28.07.2022, passed in W.P.No.15998 of 2017.

2. Writ Petition was filed by the writ petitioner, appellant herein, challenging the order of first respondent Authority, namely, District Revenue Officer, Perambalur, dated 23.10.2015, confirming the order of second respondent Authority, namely, Sub-Collector, Perambalur, dated 18.09.2014.

3. Before the learned single Judge, counsel for the appellant and the contesting respondent submitted that there was a dispute with regard to the property in question and joint patta may be maintained till they get appropriate redressal before the



Civil Court, seeking title. The learned single Judge recorded the submission in Paragraph 3 and the relevant finding in Paragraph 4, which are extracted below :

"3. The respective learned counsel appearing for the petitioner and the 5th respondent submitted that this Court may issue direction to the official respondents to maintain joint patta issued in favour of the petitioner and the private respondent and liberty may be given to the parties to approach the Civil Court for declaration of title in respect of survey number in question.

4. In view of the consent expressed by the learned counsel for the petitioner and the private respondent, this Court is inclined to issue direction to the official respondents to maintain joint patta in the name of the petitioner and the private respondent and further grants liberty to the petitioner to file an appropriate Suit before the competent Civil Court by impleading the private respondent as party in the said Suit and the succeeding party is granted liberty to file fresh application before the revenue official for issuance of patta."

From the above, it is clear that it was a consensual order and the parties' rights are not affected by the said order, as they have been given liberty to work out their remedy before the competent Civil Court.

4. When there was a consent, questioning the same by means of an appeal through another lawyer is not justified. That apart, if the appellant has got any grievance, more-so in the light of the grounds raised by the appellant in the Memorandum of Appeal, which are extracted below, in all fairness, he should have



approached the learned single Judge by way of a review. It does not mean that the appellant is given liberty to file a review before the learned single Judge. The grounds read as under :

G R O U N D S

I) The learned Judge has erred in not considering the relief prayed for in the writ petition. The learned Judge ought to have considered that the petitioner is a victim on the hands of the 1st respondent.

II) The learned Judge has disposed the Writ petition without considering the prayer of the Writ petitioner. However, the said Writ petition filed by the petitioner for a quash the same relating issuance of joint patta in respect of the land is already partitioned to the petitioner from his father and the properties S.F.Nos.37-2C, 337-2F, 37-4B allotted to the petitioner and now the Dispute is with reference to the land and bore – well lying in the land in S.F.No. 37-2F measuring about 0.02 Ares 0.5 cents land which was allotted to the petitioner under the family partition. Which his in separate possession and in that regard with facing personal injury. The learned judge failed to consider the fact and the impugned order is liable to be quashed.

III) The learned judge failed to consider the fact that the appellant is victim and affected due to lethargic attitude of the respondents 1 to 10 for which was already allotted land to the petitioner under the family partition .

IV) The learned single judge failed to consider the fact that the 5th respondent already filed civil suit and the same was dismissed by the trial court and lower appellate court.



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5. Since we find that the order of the learned single Judge is perfectly justified, we are not inclined to grant any relief in this Writ Appeal, which is, accordingly, dismissed. No costs.

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(S.V.N.,J.) (K.R.S.,J.)
08-12-2023

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To

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