



WP(MD)No.6993 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.6993 of 2016
and
WMP(MD)No.5975 of 2016

Saraswathy

... Petitioner

v.

1.The District Revenue Officer,
Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

3.The Tahsildar,
Colachal Taluk,
Kanyakumari District.

4.Mariya Devasigamani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari to call for the records of the impugned order passed by the first respondent in M4/479/2012, dated 30.03.2016 and quash the same.



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For Petitioner : Mr.R.Murali

For Respondents : Mr.S.Saji Bino,
Special Government Pleader
for R.1 to R.3

Mr.H.Thayumanasamy for R.4

ORDER

As against the order passed by the Revenue Divisional Officer dated 21.12.2011 cancelling the patta granted in favour of the petitioner, the petitioner preferred a revision petition before the District Revenue Officer, who, by order dated 07.03.2013, allowed the revision and restored the order of the Tahsildar dated 16.11.1995 granting patta in favour of the petitioner. Challenging the order passed by the District Revenue Officer, dated 07.03.2013, the fourth respondent preferred a writ petition before this Court in WP(MD)No.9014 of 2013 and this Court, by order dated 30.03.2015, remanded the matter and directed the District Revenue Officer to consider the issue afresh. Accordingly, the District Revenue Officer has conducted an enquiry and has passed an order dated 30.03.2016, dismissing the appeal and confirming the order passed by the Revenue Divisional Officer dated



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21.12.2011, cancelling the patta granted in favour of the petitioner. As against

this order passed by the District Revenue Officer dated 30.03.2016, the petitioner has preferred this writ petition.

2.The grievance of the petitioner is that the enquiry was conducted by a District Revenue Officer and the order impugned was passed by a different Officer. The Officer, who passed the order impugned, has not had an occasion to hear the petitioner and therefore, the learned Counsel requested to remand the matter again for fresh consideration.

3.Learned Counsel for the fourth respondent submitted that the petitioner's husband was a retired Tahsildar and taking advantage of the same, the petitioner has obtained the patta in her favour. The order granting patta was challenged before the Revenue Divisional Officer, who, in turn, has set aside the same and has also ordered for initiating departmental action as against the Tahsildar, who issued the patta. The District Revenue Officer has reversed this order and this Court, in WP(MD)No.9014 of 2013, taking into account that the Tahsildar has made the sub-division without issuing notice to



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the fourth respondent herein, remanded the matter for fresh consideration.

The District Revenue Officer, after conducting enquiry, has now confirmed the order passed by the Revenue Divisional Officer.

4.He further submitted that both the petitioner as well as the fourth respondent were elaborately heard by the Officer and both of them have also filed their written submissions. Only thereafter, the District Revenue Officer has passed the order impugned.

5.Learned Counsel for the petitioner disputed that it is not correct to state that the petitioner's husband has influenced anybody for getting patta. Moreover, the petitioner's husband has already retired from service. He further stated that the fourth respondent has already filed a suit for injunction in OS.No.187 of 2008 before the District Munsif Court, Eraniel on the same property and the same was dismissed on 01.10.2021. As against the same, he filed an appeal in AS.No.11 of 2021 before the Sub Court, Eraniel and the same is posted for arguments on 26.04.2023.



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6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The Revenue Divisional Officer has found fault with the Tahsildar in issuing patta, by making a subdivision, without providing an opportunity to the fourth respondent. Therefore, he cancelled the patta and also ordered for initiating departmental action as against the officials. The District Revenue Officer by order dated 07.03.2013 reversed the same. Thereafter, the fourth respondent moved this Court by filing WP(MD)No.9014 of 2013 and this Court, by order dated 30.03.2015, remanded the matter and directed the District Revenue Officer to consider the issue afresh. Thereafter, the District Revenue Officer has conducted an enquiry and has passed the impugned order confirming the order passed by the Revenue Divisional Officer.

8.Rule 4(4) of the Patta Passbook Rules mandates the revenue officials to refer the matter to the civil Court, if there is any dispute with regard to the title of the property among two parties. This Court, in various decisions, has



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held that the revenue officials are not expected to take a decision on the title of the property, when there are disputes amongst the parties.

9.The parties who are having any grievance have to approach the civil Court for their relief. In this case, it appears that the fourth respondent has already approached the civil Court and the same is now pending in AS.No.11 of 2021. Therefore, this writ petition stands disposed of, with liberty to the parties to work out their remedy in the pending civil suit. Considering the fact that the issue is pending for a very long time, the Sub Court, Eraniel, shall endeavour to conclude the proceedings in AS.No.11 of 2021, as expeditiously as possible, preferably within a period of one month from the date of receipt of a copy of this order.

Accordingly, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

21.04.2023



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Note:

Mark a copy of this order to
The Subordinate Judge,
Eraniel.

To

- 1.The District Revenue Officer,
Kanyakumari District.
- 2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.
- 3.The Tahsildar,
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B.PUGALENDHI, J.

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