IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.3 of 2024

R.Raja .. Appellant

Vs

1.Lakshmanan

2.The Revenue Divisional Officer,
Madhuranthagam,
Chengalpet District.

3.The Tashildhar,
Cheyyur Taluk,
Chengalpet. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 28.9.2022 passed in W.P.No.24168 of 2022.

For the Appellant : Mr.G.Srivenkatesh

For the Respondents : Mr.R.Karthikeyan
for respondent No.1

: Mr.K.Karthik Jegannath
Government Advocate
for respondents 2 and 3

JUDGMENT
(Order of the court was made by the Hon'ble Chief Justice)

We have heard Mr.G.Srivenkatesh, learned counsel for the appellant; Mr.K.Karthikeyan, learned counsel for the first respondent; and, Mr.K.Karthik Jegannath, learned Government Advocate for respondents 2 and 3.

2. The present first respondent has filed a writ petition challenging the enquiry initiated by the Revenue Divisional Officer, Madhuranthagam.

3. The reason for enquiry was the complaint made by the present appellant. According to him, John Nicholas Amant Duncker @ John Duncker was a German citizen and a foreigner cannot acquire property in India. He had purchased the property and, thereafter, married one Parameshwari. The said property was purchased in 1994

by John Nicholas Amant Duncker @ John Duncker. He died in the year 2022. Upon his death, Parameshwari had obtained legal heirship certificate and sold the property to the original writ petitioner/first respondent herein.

4. The learned Single Judge allowed the writ petition and quashed the proceedings of the Revenue Divisional Officer, Madhuranthagam. Aggrieved thereby, the present appeal is filed by the appellant.

5. According to learned counsel for the appellant, the enquiry was rightly initiated. Parameshwari could not have obtained the legal heirship certificate and, on the basis of the said legal heirship certificate, she could not have sold the property. At the first instance, John Nicholas Amant Duncker @ John Duncker has no right to acquire the property in India and, as such, no legal heirship certificate could have been given in respect of the property, which John Nicholas Amant Duncker @ John Duncker is not legally entitled to.

6. The learned Single Judge observed that patta is issued in

favour of the original writ petitioner. There is a remedy provided under the Tamil Nadu Patta Passbook Act with regard to the grant of patta. The said remedy was not availed. Learned Single Judge also observed that the Revenue Divisional Officer could not usurp the power of the Tahsildar and that the Revenue Divisional Officer is not the competent authority to decide the title of the original petitioner. If the present appellant has any grievance, he has to approach the civil court or make a complaint before the Directorate of Enforcement.

7. We do not find any error in the reasoning given by the learned Single Judge.

8. The writ appeal, accordingly, is dismissed. There shall be no order as to costs.

(S.V.G., CJ.) (D.B.C., J.)
12.03.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

1.The Revenue Divisional Officer,
Madhuranthagam,
Chengalpet District.

2.The Tashildhar,
Cheyyur Taluk,
Chengalpet.

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

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