



W.P. No.4812 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.4812 of 2024

and

W.M.P.Nos.5246 & 5247 of 2024

Mathandi Tamilarasi

... Petitioner

Vs.

1.The District Revenue Officer,
Namakkal, Namakkal District.

2.The Revenue Divisional Officer,
Namakkal, Namakkal District.

3.S. Ramasamy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the entire records pertaining to the impugned order dated 19.10.2023 in Ne.Mu.2673/2023/A6 passed by the 2nd respondent and to quash the same.

For Petitioner : Mr. S. Senthil

For Respondents : Mr. T. Arun Kumar, Addl.G.P. (for R1 & R2)



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ORDER

This Writ Petition is filed seeking to issue a Writ of Certiorari to call for the entire records pertaining to the impugned order dated 19.10.2023 in Ne.Mu.2673/ 2023/A6 passed by the second respondent and quash the same.

2. The learned counsel for the petitioner submitted that the 2nd respondent/RDO, without any jurisdiction and authority, has passed the order declaring the title. Therefore, the same is liable to be quashed. He also submitted that no communication was issued from the 2nd respondent. He further submitted that the petitioner has also filed an appeal against the order passed by the 2nd respondent/DRO before the 1st respondent and the same is pending.

3. Mr.T.Arun Kumar, learned Additional Government Pleader who takes notice for the respondents 1 and 2 submitted that, earlier, the 3rd respondent had approached this Court by way of writ petition in



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W.P.No.3056 of 2023 and got an order of mandamus directing the authorities to conduct enquiry and pass orders based on his representation and only based on which, the 2nd respondent issued notice to the petitioner and to the 3rd respondent and after conducting enquiry in the manner known to law, passed the impugned order. Now the petitioner has also filed an appeal challenging the same before the 1st respondent and the same is pending. Further, already the order of the 2nd respondent was duly served on the petitioner and to the 3rd respondent and only thereafter, the petitioner has invoked the appellate remedy and now, he cannot say that no copy was issued to him.

4. Since no adverse order is being passed against the 3rd respondent, notice to the 3rd respondent is dispensed with.

5. It is seen that the 3rd respondent had earlier filed a writ petition before this Court in W.P.No.3056 of 2023 seeking to issue a mandamus and this Court by order dated 17.03.2023, has given a direction to the 2nd



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respondent to consider his representation and pass orders on merits.

Further, it is seen from the order of the 2nd respondent that the 2nd respondent has issued notice to both the petitioner and the 3rd respondent and conducted enquiry and passed orders on merits. Now challenging the order of the 2nd respondent, the petitioner has filed appeal before the 1st respondent on the ground that the 2nd respondent has no jurisdiction and authority to declare the title of the parties and the Civil Court alone has got the power to declare the title.

6. Since the petitioner has already invoked efficacious alternative statutory remedy by filing appeal before the 1st respondent and the same is pending, the 1st respondent is directed to issue notice to the petitioner, 3rd respondent and any other parties in the appeal, interested parties/rival claimants/objectors if any, as the case may be and after issuing notice to all the parties, hear the appeal on merits and pass orders in accordance with law.



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7. The petitioner has already invoked appellate jurisdiction and he has also filed a suit for declaration and permanent injunction against the 3rd respondent in O.S.No.147 of 2017 and the same came to be dismissed on 16.08.2023 for default. Now the petitioner has also filed an application to restore the said suit.

8. Under these circumstances, the petitioner shall either work out remedy before the civil Court or before the appellate authority, as noted above.

9. With the above directions, this Writ Petition is disposed of at the admission stage itself. Consequently, the connected miscellaneous petitions are also closed. There shall be no order as to costs.

27.02.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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To
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- 1.The District Revenue Officer,
Namakkal,
Namakkal District.

- 2.The Revenue Divisional Officer,
Namakkal,
Namakkal District.



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P.VELMURUGAN. J.

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