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W.P.No.10082 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.10082 of 2024
and
W.M.P.No.11106 of 2024

A.Sheik Mohammed Sadiq

Vs.

... Petitioner

1.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Kallakurichi Taluk,
Kallakurichi District -606 213.

2.The Revenue Tahsildar,
Office of The Revenue Tahsildar,
Kallakurichi Taluk,
Kallakurichi District -606 202.

3.Sheik Bakkuridin

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in O.Mu.A3/3583/2023 dated 25.09.2023, quash the same and consequently direct the 2nd respondent to issue patta in favour of the petitioner pursuant to his Application dated 02.02.2023.



W.P.No.10082 of 2020

For Petitioner : Ms.Gopika Nambiar

For Respondents : Mr.P.Sathish.
Additional Government Pleader
for R1 and R2

ORDER

This Writ Petition has been filed challenging the order of the 2nd respondent/Tahsildar rejecting the application filed by the petitioner to include his name in the patta. The petitioner acquired title on the basis of the Settlement Deed dated 29.11.2010 executed by the petitioner's wife. On the basis of the Settlement Deed executed in his favour, he gave an application to include his name in the patta. The 2nd respondent rejected that application on the ground that since the suit in O.S.No.107 of 2020 and I.A.No.205 of 2020 is pending against the petitioner, the patta cannot be changed.

2.The learned counsel for the petitioner brought to the notice of this Court that the suit referred to in the above impugned order is a money suit filed against the petitioner for recovery of money on the basis of the Pro-note.



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3. When the suit is no way connected with the immovable property and the same is in respect of independent transaction, the impugned order cannot be sustained in the eye of Law. Normally, this Court will call for the records when challenge has been made against any order passed by the Authorities. At the same time, when the impugned order is a result of non application of mind and without any merit, there is no need to call for the records.

4. The suit referred to in the impugned order, namely, O.S.No.107 of 2020 and I.A.No.205 of 2020 on the file of the learned Principal Sub Judge, Kallakurichi, is a simple money suit filed by one Sheik Bakkuridin as against the petitioner for recovery of Rs.3,80,950/- on the basis of the Pro-note executed by the petitioner. The other application is pending in I.A.No.205 of 2020 filed for attachment before Judgment under Order 38 Rule 5 and 151 of CPC.

5. Therefore, when the suit is no way connected with the title of the property and the suit is filed for an independent transaction and citing the pending suit and rejecting the application is clear non application of mind. Therefore, the impugned order cannot be sustained in the eye of law and the



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same is quashed.

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Accordingly, this Writ Petition is allowed. The 2nd respondent is directed to issue a patta on the basis of the title document in favour of the petitioner within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

12.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
mps

To

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2.The Revenue Tahsildar,
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N. SATHISH KUMAR, J.



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