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W.P.No.31323 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.31323 of 2024
and WMP.No.33973 of 2024

M.Lingammal

... Petitioner

Vs.

1.The Tahsildar,
O/o.Uthangarai Taluk Office,
Krishnagiri District – 635 307.

2.Arjunan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, call for the records relating to the order dated 07.10.2024 passed by the 1st respondent in his proceedings Na.Ka.No.2532/2023/A3 to quash the same and forbearing the 1st respondent and his men and agents, or anyone else, from disrupting the petitioner peaceful possession and enjoyment upon the S.No.70/1 an extent of 0.17 cents and S.No.70/2, an extent of 1.83 cents, punja land situated in Kommanpattu Village, Uthangarai Taluk, Krishnagiri District, now the



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revenue records as mentioned in the patta No.315 and bearing S.No.70/1 and 70/2 have been merged as 70/1A an extent of 0.68 hectares as mentioned as 1.68 acres situated in Kommampattu Village, Uthangarai Taluk, Krishnagiri District belongs to the petitioner.

For Petitioner : Mr.M.Digvijayapandian
For Respondents : Mr.P.Sathish
Additional Government Pleader
for R1

ORDER

By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. The writ petition is filed challenging the order passed by the first respondent issuing patta in favour of the second respondent in respect of the property situated in S.No.70/1A in Kommanpattu Village, Uthangarai Taluk, Krishnagiri District.

3. It is the case of the petitioner that the above mentioned property was purchased by him on 13.05.1986 from one Govindasamy



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Gounder. Subsequently, the revenue records have been mutated in favour of the petitioner. The second respondent filed a suit for partition in O.S.No.102 of 1985 on the file of the Subordinate Judge, Krishnagiri and obtained a preliminary decree. Thereafter, he filed a final decree application in I.A.No.324 of 1997 and in the final decree proceeding, the subject property was allotted to the share of the second respondent. Now, based on the final decree passed by the Civil Court, the second respondent filed an application before the first respondent seeking mutation of revenue records in his favour. The first respondent by impugned order directed to grant patta in the name of the second respondent based on the Civil Court decree. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner submits that he purchased the property from Govindhasamy in the year 1986 itself and also have the revenue records mutated in his favour. In such circumstances, the order passed by the first respondent is untenable in law.



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5. It is seen from the records that the petitioner's vendor Govindhasamy was party to the suit in O.S.No.102 of 1985 and pending partition suit, he sold the subject property in favour of the petitioner. Therefore, the sale deed in favour of the petitioner is hit by the doctrine of lis pendens. The first respondent after conducting a detailed enquiry and affording proper opportunity to the petitioner, based on the Civil Court decree, passed an order in favour of the second respondent and mutated the revenue records in his favour. The order passed by the first respondent is an appealable order and the petitioner is not entitled to approach this Court straightaway without exhausting the appeal remedy.

6. A reading of the impugned order would indicate that the petitioner appeared before the first respondent and put forth his case. Therefore, there is no violation of principles of natural justice in passing the impugned order. In such circumstances, this Court is not inclined to exercise power under Article 226 of the Constitution of India. The petitioner has an alternative remedy of appeal before the District Revenue Officer. The petitioner can also approach the District Revenue Officer by way of revision



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against any order passed in appeal. Hence, liberty is given to the petitioner to file an appeal before the Appellate Authority namely the Revenue Divisional Officer, Krishnagiri, within a period of two weeks from the date of receipt of copy of this order.

7. The learned counsel appearing for the petitioner would submit that after passing of impugned order, the first respondent is attempting to interfere with his possession.

8. The learned Additional Government Pleader, on instructions submitted that the first respondent passed an order, mutating the revenue records based on Civil Court decree and absolutely, there is no occasion for the first respondent to interfere with alleged the possession of the petitioner. The said submission made by the learned Additional Government Pleader is recorded and the writ petition stands dismissed with liberty to the petitioner avail alternative remedy of appeal.



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9. Accordingly, this writ petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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Note: Registry is directed to return the original impugned order to the learned counsel for the petitioner.



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To
The Tahsildar,
O/o.Uthangarai Taluk Office,
Krishnagiri District – 635 307.



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S.SOUNTHAR, J.

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