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W.P(MD)No.1272

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1272 of 2024
and
W.M.P(MD)Nos.1301 & 1302 of 2024

Maruthamuthu

... Petitioner

Vs

1.The Revenue Divisional Officer,
Palani Taluk,
Dindigul District.

2.The Tahsildar,
Palani Taluk,
Dindigul District.

3.V.Marimuthu

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in his proceedings Na.ka.No.8704/23/A1 dated 07.12.2023 and quash the same as illegal, consequently direct the first respondent to relegate the parties to approach the Civil Court to get a ruling on ownership of the property.



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For Petitioner : Mr.T.Lenin Kumar
For R1 & R2 : Mr.D.Gandhiraj
Special Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings in Na.Ka.No.8704/23/A1, dated 07.12.2023 passed by the first respondent and consequently direct the first respondent to relegate the parties to approach the Civil Court to get a ruling on ownership of the property.

2. Heard Mr.T.Lenin Kumar, learned counsel appearing for the petitioner and Mr.D.Gandhiraj, learned Special Government Pleader appearing for the respondents 1 & 2.

3. Considering the nature of the order proposed to be passed, protecting the interest of the third respondent also, notice to the third respondent is dispensed with. By consent, this writ petition is disposed of at the admission itself.

4. According to the petitioner, the property measuring to an extent of 5.76 acres comprised in Survey No.593 situated at Kanakkanpatti, Dindigul District originally belonged to one Velusamy Gounder and his brother Ramasamy Gounder. After some time, Ramasamy Gounder and Velusamy Gounder orally partitioned the



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property and acquired their respective shares at the ratio of 2.88 acres each. Since then, they are in absolute possession and enjoyment of their respective shares without any hindrance. At this juncture, Ramasamy Gounder executed a sale deed, dated 01.07.2002 registered as document No.674/2002 conveying his share of 2.88 acres in favour of the petitioner's father Ponnusamy. His father was in absolute possession and enjoyment of the property without any hindrance. While so, the Central Government acquired an extent of 57 cents, out of the property purchased by his father. In lieu of the acquisition, the State Government awarded compensation of Rs.6,71,899/- to his father Ponnusamy. After the land acquisition, the remaining land was sub-divided as Survey No.593/1B. On 04.11.2022, his father executed a settlement deed registered as document No.2353/2022 conveying the said property in his favour. From the said date onwards, he is in possession and enjoyment of the property without any hindrance. The third respondent is none other than the son of the above said Velusamy. After the demise of Velusamy, an extent of 2.88 acres allotted to Velusamy devolved upon the third respondent. The third respondent is in absolute possession and enjoyment of the property. On the southern side of the third respondent's property, the petitioner's property comprised in Survey No.594/1B is situated. In the said survey number, he is fetching water by laying pipe line in the third respondent's property. Disgruntled over his development, the third respondent disturbed him. Immediately, the petitioner filed a suit against the third respondent in O.S.No.107 of 2023 before the District Munsif, Palani for permanent injunction and



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the same is pending. The third respondent after entering appearance in the said suit, made a representation before the first respondent alleging that his father was having equal share in the property purchased by the petitioner's father and hence, the subdivision effected to his property must be cancelled and a fresh survey has to be carried out. The first respondent after receipt of the representation of the third respondent sent a notice to the petitioner in Na.Ka.No.8704/23/A1 datd 15.09.2023 calling upon the petitioner to appear before the third respondent on 27.09.2023. After receipt of the notice, he appeared before the first respondent and produced the copy of plaint and requested him to relegate the third respondent to work out his remedy before the Civil Court. The first respondent without relegating the third respondent to Civil Court, once again issued a notice vide his proceedings in Na.Ka.No.8704/23/A1 dated 07.12.2023. After receipt of the notice, the petitioner appeared before the first respondent and reiterated the same. In spite of the same, the first respondent is attempting to decide the title over the property. Hence, the petitioner has filed the present writ petition to quash the impugned proceedings passed by the first respondent in Na.Ka.No.8704/23/A1 dated 07.12.2023.

5. According to the petitioner, in view of Rule 4(4) of the Tamil Nadu Patta Passbook Rules 1983, when there was a serious title dispute over the property, the first respondent shall refer the parties to approach the Civil Court to obtain a ruling on ownership of the title. The first respondent, without following the procedure



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contemplated under relevant act, is attempting to pass orders in favour of the third respondent.

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6. As per the proceedings, dated 22.01.2024 the Revenue Divisional Officer, Palani has directed the petitioner, respondent, Village Administrative Officer to appear for enquiry on 24.01.2024.

7. The first respondent has no jurisdiction to decide the title over the property when the party to the proceeding claiming title and possession over the property. In view of the above, the impugned order passed by the first respondent in Na.Ka.No. 8704/23/A1, dated 07.12.2023 is set aside and the writ petition is allowed. The first respondent / Revenue Divisional Officer is directed to conduct the fresh enquiry after giving an opportunity to both parties and pass orders on merits and in accordance with law within a period of sixteen (16) weeks from the date of receipt of a copy of this order. The petitioner is directed to appear before the Revenue Divisional Officer for an enquiry. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No
Internet: Yes/No
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- To
- 1.The Revenue Divisional Officer,
Palani Taluk,
Dindigul District.
 - 2.The Tahsildar,
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V.BHAVANI SUBBAROYAN, J.

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