



W.P(MD)No.2546 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.2546 of 2021
and
W.M.P(MD)No.2105 of 2021
and
W.M.P(MD)No.1460 of 2022

P.L.Venkatachalam

: Petitioner

Vs.

1.The District Collector,
Sivagangai District.

2.Arunachalam

3.L.Arunachalam

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent, dated 11.11.2020 (received on 22.12.2020) in L.P. 1/6140/2016 and quash the same.

For Petitioner : Mr.R.Sudar Srinivasan

For Respondents : Mrs.K.Christy Theboral,
Additional Government Pleader for R1



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: Mr.M.Suresh Kumar, for R2.

: No Appearance, for R3.

ORDER

This Writ Petition is directed against the order passed by the first respondent dated 11.11.2020 setting aside the order passed by the District Revenue Officer, dated 23.07.2018.

2. It is not in dispute that the petitioner has earlier preferred an appeal seeking for transfer of patta alleging that the petitioner's father Palaniappan has obtained ownership through sale certificate and that the Revenue Divisional Officer, vide order, dated 17.07.2014 has ordered to change the patta in the name of the petitioner's father Palaniappan.

3. It is also evident from the records that the second respondent, who is claiming ownership through the third respondent by way of purchase, has also filed an appeal before the Revenue Divisional Officer and the Revenue Divisional Officer has passed the order, dated 30.11.2015 observing that he has already passed an order on the basis of the appeal filed by the writ petitioner, dated 17.04.2014, closed the same and that the second respondent



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has preferred a revision before the District Revenue Officer and the District Revenue Officer, Sivagangai has passed an order, dated 23.07.2018 by observing that there existed title dispute between the parties and directed them to approach the competent Civil Court to redress their grievances.

4. It is also not in dispute that subsequent to the order passed by the District Revenue Officer, the second respondent has approached the first respondent, objecting to the order passed by the District Revenue Officer and the first respondent, after enquiry, has passed the impugned order, dated 11.11.2020, setting aside the order passed by the District Revenue Officer and directed the jurisdictional Tahsildar to conduct enquiry and pass orders.

5. The main contention of the writ petitioner is that the first respondent being the District Collector has absolutely no power or jurisdiction to consider the validity or legality of the order passed by the District Revenue Officer under the Tamil Nadu Patta Passbook Act and that the Patta Passbook Act does not give any power to the District Collector to pass any orders and the impugned order passed without jurisdiction is nullity.



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6. The learned counsel appearing for the second respondent would submit that the Revenue Divisional Officer without issuing any notice to the second respondent and without conducting enquiry, has passed the order, dated 17.07.2014 and that is why he was forced to approach the District Revenue Officer, but the District Revenue Officer, without considering the same, has closed the matter and that thereafter, the petitioner was constrained to file a revision before the DRO and DRO also without considering the material produced to show the ownership of the second respondent, has directed the parties to approach the competent Civil Court and that in case, if the Court is of the view that the first respondent has no jurisdiction to pass orders, the matter may be remitted back to the Revenue Divisional Officer for conducting enquiry afresh.

7. It is pertinent to note that since the petitioner as well as the third respondent are claiming ownership of the property and even if the matter is remitted back to the Revenue Divisional Officer, he cannot decide the title of the parties. It is settled law that the Civil Court alone can decide the same and only on that basis, the District Revenue Officer has passed the order directing the parties to approach the competent Civil Court.



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8. Since the first respondent has passed the impugned order without any jurisdiction, this Court has no hesitation to hold that the impugned order is legally unsustainable and the same is liable to be set aside.

9. In the result, the Writ Petition is allowed and the impugned order passed by the first respondent, dated 11.11.2020 is set aside and the order passed by the District Revenue Officer, Sivagangai, dated 23.07.2018 stands confirmed. Consequently, connected Miscellaneous Petition is closed. No costs.

15.04.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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To

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Sivagangai District.



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K.MURALI SHANKAR, J

DAS

Order made in
W.P(MD)No.2546 of 2021
and
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and
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Dated : 15.04.2024