BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.SURESH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE G.ARUL MURUGAN**

W.A.(MD)No.1018 of 2024
and
C.M.P.(MD)No.7378 of 2024

V.Mathiyalagan ... Appellant

-Vs-

1.The Revenue Divisional Officer,
Aravakkurichi, Karur, Karur District.

2.The Tahsildar,
Aravakkurichi Taluk,
Aravakkurichi, Karur District.

3.The Tahsildar,
Pugalur Taluk, Karur District.

4.R.Thiruvengadam ... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 15.04.2024 made in W.P.(MD)No.4804 of 2024 on the file of this Court.

For Appellant : Mr.F.X.Eugene
For R1 to R3 : Mr.A.Kannan,
Additional Government Pleader
For R4 : Mr.A.N.Ramanathan

JUDGMENT

[Judgment of the Court was delivered by *R.SURESH KUMAR, J.*]

With regard to the landed property at S.No.282/3, 283/B at Kuppam Village, originally, Aravakkurichi Taluk, presently, Pugalur Taluk, the name of the 4th respondent had been included as joint pattadharar by proceedings of the 2nd respondent dated 27.01.2015.

2.Aggrieved over the said order, the appellant / writ petitioner filed an appeal before the 1st respondent on 27.10.2023. Having entertained the said appeal, on 18.11.2023, the 1st respondent has sent a communication to the 3rd respondent to enquire the matter and send a report.

3.In the meanwhile, pursuant to the order passed by the 2nd respondent, dated 27.01.2015, the 4th respondent seems to have taken steps to survey the land. Therefore, aggrieved over the said action, the writ petitioner had approached the

Writ Court by filing the said Writ Petition in W.P.(MD)No.4804 of 2024, where the learned Single Judge, by the impugned order dated 15.04.2024, has given a direction to the 1st respondent / Revenue Divisional Officer to decide the appeal. However, the survey proposal, that has been made by the 4th respondent with the help of the revenue authorities, shall be deferred for four weeks period, that means after the period of four weeks, it is open to the 4th respondent to proceed with the survey proceedings with the help of the revenue authorities. Therefore, again aggrieved over the said order passed by the learned Single Judge, dated 15.04.2024, the present Writ Appeal has been directed.

4.Heard the learned counsel for the appellant, the learned Additional Government Pleader for the respondents 1 to 3 and the learned counsel for the 4th respondent.

5.The learned counsel for the 4th respondent would contend that he is the auction purchaser of the property in question and therefore, he is entitled to get a patta pursuant to the order passed by the Tahsildar, ie., the 2nd respondent, dated 27.01.2015, wherein the name of the 4th respondent since has been included as joint pattadharar, as in the said survey number only part of the property has been purchased by way of Court auction, that order cannot be questioned.

6.However, since the same has been questioned by the appellant / writ petitioner, notice had already been given to the parties to conduct enquiry and in this regard, a notice recently has been issued by the 1st respondent on 17.05.2024, under which, the date had been fixed to conduct enquiry on 30.05.2024. On that date, enquiry since has become inconclusive, for further enquiry, it has been adjourned. Therefore, the matter is still pending with the 1st respondent / Revenue Divisional Officer and therefore, he may be directed to decide the appeal filed by the appellant / writ petitioner at the earliest point of time, so that a quietus can be given, the learned counsel for the 4th respondent contended.

7.At the same time, the learned counsel for the appellant would contend that since the appeal is pending before the 1st respondent / Revenue Divisional Officer, he should have independently conducted enquiry on the appeal by giving opportunity to both sides and decided the appeal on merits at the earliest point of time. However, on 18.11.2023, he had once again directed the 3rd respondent / Tahsildar to conduct enquiry and file a report.

8.In this regard, it is further stated by the learned counsel for the appellant / writ petitioner that originally, the land comes under the jurisdiction of the 2nd respondent. Now, after bifurcation, it is come under the jurisdiction of the

3rd respondent. Therefore, the 3rd respondent had already stepped into the shoes of the 2nd respondent and passed an order dated 27.01.2015, which was appealed before the 1st respondent. When that being so, once again the 1st respondent ought not to have asked the 3rd respondent to conduct enquiry and file a report.

9.Therefore, to that extent, the move of the 1st respondent may not be justifiable and in the meanwhile, only four weeks time had been given by the learned Single Judge to defer the survey and once the four weeks time is over, the 4th respondent since would take steps to survey the land, that would prejudice the interest of the appellant / writ petitioner, as his appeal is yet to be decided by the 1st respondent. Therefore, challenging the said order, since the appeal is filed, he seeks quashment of the order.

10.The learned Additional Government Pleader for the respondents 1 to 3 would submit that normally, if any appeal comes to the appellate authority, namely, Revenue Divisional Officer, remarks would be called for from the lower authority, namely, Tahsildar. Therefore, it cannot be stated as *de nova* enquiry and fresh enquiry is to be conducted by the Tahsildar. In this regard, the Revenue Divisional Officer would independently conduct enquiry, for which, notice had already been issued and enquiry has been commenced on 30.05.2024. If at all any further enquiry is to be conducted, the date will be fixed and after completing the enquiry by giving opportunity to both sides, the 1st respondent would independently decide the appeal filed by the appellant / writ petitioner dated 27.10.2023 on merits and in accordance with law, of course, within a time frame that may be stipulated.

11.Having heard the said contentions raised by the learned counsel for the respective parties and taking note of the factual matrix of this case, we feel that four weeks time only since has been given by the learned Single Judge to defer the survey proceedings, thereafter, there may be a chance that the 4th respondent with the help of the revenue authorities would proceed with the survey activities, which, naturally, would affect the appellant / writ petitioner, as his appeal is yet to be decided by the 1st respondent.

12.In that view of the matter, we set aside the impugned order passed by the Writ Court dated 15.04.2024. As a sequel, there shall be a direction to the 1st respondent / Revenue Divisional Officer to complete the enquiry on the appeal filed by the appellant / writ petitioner dated 27.10.2023 at the earliest and after giving enough opportunity to both sides, ie., the appellant / writ petitioner as well as the 4th respondent, the appeal shall be independently decided on merits and in accordance with law by the 1st respondent, within a period of two months from the date of receipt of a copy of this order. Till such order is passed and the appeal is disposed of one way or other, no survey activities shall be undertaken by the revenue authorities, for which, no attempt shall be made by the 4th respondent, insofar as the land in question is concerned.

13.With these observations, this Writ Appeal is ordered. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] & [G.A.M., J.]
18.06.2024

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

Yuva
To

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Aravakkurichi, Karur, Karur District.

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Aravakkurichi Taluk,
Aravakkurichi, Karur District.

3.The Tahsildar,
Pugalur Taluk, Karur District.

R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

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