BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

CORAM:

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

AND

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

W.A.(MD)No.1089 of 2024
and
C.M.P.(MD)No.8215 of 2024

R.Karpaganaban ... Appellant

-Vs-

1.Vijayan Soans

2.The Revenue Divisional Officer,
Kodaikanal, Dindigul District.

3.The Tahsildar,
Kodaikanal, Dindigul District.

4.Prabha Appasamy.P
5.Sita Panicker ... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 26.03.2024 made in W.P.(MD)No.28844 of 2023 on the file of this Court.

For Appellant : Mr.R.S.Sivaram

For R1 : Mr.G.Prabhu Rajadurai,
for Mr.A.Anbalakan

For R2 & R3 : Mr.A.Kannan,
Additional Government Pleader

JUDGMENT

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

This Writ Appeal is directed against the order passed by the Writ Court dated 26.03.2024 made in W.P.(MD)No.28844 of 2023.

2.With regard to the property in question at two survey numbers in Kodaikanal Vilage, there has been a civil dispute between the appellant and the 1st respondent / writ petitioner and others. The suit filed by the appellant in O.S.No.17 of 1992 was dismissed on 26.08.2019. As against which, the appellant preferred Appeal Suit in A.S.No.91 of 2019 on the file of the Sub Court, Palani, which is pending.

3.In the meanwhile, the Tahsildar, Kodaikanal / 3rd respondent passed an order on 17.07.2009 in favour of the 1st respondent / writ petitioner. This was questioned by the appellant and others before the Revenue Divisional Officer, Kodaikanal / 2nd respondent, who passed an order on 02.08.2011, setting aside the order passed by the Tahsildar, Kodaikanal. Challenging the order passed by the

2nd respondent / Revenue Divisional Officer, the 1st respondent / writ petitioner filed an appeal before the District Revenue Officer, Dindigul, who passed an order on 07.07.2014, confirming the order passed by the Revenue Divisional Officer and relegating the parties to go to the civil Court and if they already approached the civil Court, they shall abide by the outcome of the civil suit.

4.Only in that circumstances, the Appeal Suit filed in A.S.No.91 of 2019 is pending consideration before the Sub Court, Palani.

5.At that juncture, the Revenue Divisional Officer / 2nd respondent passed an order, by proceedings dated 11.10.2023, deleting the names of the pattadharars and confirming the description of the land as a free hold land in the revenue record. This order has been questioned by the 1st respondent / writ petitioner in the said Writ Petition.

6.While dealing with the said Writ Petition, the Writ Court has passed an order, directing the authorities to abide by the decision to be made by the civil Court ie., Sub Court, Palani in the pending appeal. Insofar as the order dated 11.10.2023 passed by the 2nd respondent is concerned, the learned Single Judge was pleased to set aside the same on the ground that already the higher official, namely, District Revenue Officer has passed an order on 07.07.2014, whereby, the parties are relegated to go before the civil Court. Therefore, the civil proceedings still pending with the Sub Court, Palani, unless and until is concluded one way or other, neither of the party would approach the revenue authorities, seeking mutation of the revenue records and therefore, the order passed by the Revenue Divisional Officer dated 11.10.2023 cannot be sustained. By stating the said reasons, the learned Single Judge set aside the said order of the Revenue Divisional Officer and allowed the said Writ Petition.

7.The learned Single Judge in the order impugned also directed the Sub Court, Palani to dispose of the Appeal Suit in A.S.No.91 of 2019 on merits and in accordance with law on or before 31.07.2024 ie., at the end of this month.

8.Such an innocuous order has been passed by the learned Single Judge, by which, the learned Single Judge has not recognized the merits or claim of any of the parties, including the 1st respondent / writ petitioner.

9.If at all the order dated 11.10.2023 passed by the Revenue Divisional Officer is set aside, *ipso facto* that would not confer any right or title over the property to and in favour of the 1st respondent, unless and until concluding decision is taken by the civil Court, where the appeal proceedings is admittedly, pending.

10.Moreover, once the appeal is disposed of as directed by the Writ Court on or before 31.07.2024, based on which, they can very well approach the revenue authorities to workout the remedies. Till such time, whatever the order passed by the revenue authorities, including the order dated 11.10.2023 even though it has been set aside, otherwise had it not been set aside, would not confer any right of either of the parties.

11.Therefore, we are of the view that the order passed by the learned Single Judge does not warrant or call for any interference. Hence, this Writ Appeal fails, accordingly, it is dismissed with the aforesaid observations. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J.] & [G.A.M., J.]
03.07.2024

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

Yuva

R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

Yuva

To

1.The Revenue Divisional Officer,
Kodaikanal, Dindigul District.

2.The Tahsildar,
Kodaikanal, Dindigul District.

W.A.(MD)No.1089 of 2024

03.07.2024