



W.A(MD)No.1412 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

W.A(MD) No.1412 of 2014

and

M.P(ND)Nos.1 and 2 of 2014

Thuravi Govinda Kummaaran,
Trustee,
Papanasam Kudisai Trust,
Ambasamudram Taluk,
Tirunelveli District.

... Appellant/Petitioner

Vs.

1.The District Revenue Officer,
Tirunelveli.

2.The Appellate Authority cum Sub-Collector,
Cheranmahadevi,
Tirunelveli District.

3.The Tahsildhar,
Ambasamudram Taluk,
Tirunelveli District.

4.T.Mariapushpam

....Respondents/Respondents



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Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order passed in W.P(MD)No.12768 of 2013 dated 30.07.2014.

For Appellant	:Mr.V.Meenakshi Sundaram for M/s.D.Nallathambi
For R-1 to R-3	:Mr.N.Muthuvijayan, Special Government Pleader
For R-4	:Mr.K.P.Narayana Kumar

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

The appellant herein challenges the order of the learned Single Judge in W.P(MD)No.12768 of 2013, dated 30.07.2014.

2. The order under challenge before the learned Single Judge was an order of the second respondent, dated 25.06.2013, by which, the second respondent had excluded the name of the appellant from the patta for the property in re-survey Nos.312/2 and 313/3 of Keezha Ambur Village, Ambasamudram Taluk, Tirunelveli District.

3. The facts under which this writ petition is filed though built on a lengthy narration of facts, for the present purpose, and given the nature of the order



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this Court is now intended to pass, the same thing has been stated briefly as follows:

- a) Vis-a-vis the above said property, the patta was originally granted to the appellant and the vendors of the fourth respondent. It appears that while both the parties are purchasers of the above property, they seem to have trace title from different sources. To state it differently, there claim of acquisition of title of the property though is not the same.
- b) While so, the fourth respondent had made an application, dated 18.08.2009 before the third respondent, the concerned jurisdictional Tahsildar, for including her name in the patta. Accordingly, the Tahsildar, issued a joint patta, in which he directed inclusion of the fourth respondent.
- c) Alleging that he was not heard by the Tahsildar, the appellant herein approached the second respondent in appeal. The second respondent confirmed the order of the Tahsildar which the appellant chose to challenge before the first respondent. The first respondent vide his



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order, dated 04.06.2012, remanded the matter back to the second respondent. Now, the second respondent vide his order, dated 25.06.2013, had excluded the name of the appellant entirely from the joint patta. This order of the second respondent was challenged by the appellant in W.P(MD)No.12768 of 2013.

4. The learned Single Judge vide his order, dated 30.07.2014, has reminded the appellant of his remedy under Section 14 of the Tamil Nadu Patta Passbook Act, 1983 and accordingly, directed him to go for a civil suit if he is so interested. This order is now under challenge.

5. Heard both sides and perused the materials. The learned counsel for the appellant submitted that it is nobody's case that the appellant was not one of the joint patta holders of the aforesaid property, and the fourth respondent also did not dispute the appellant's right to have his name in the patta, and that she merely applied to have her name included in the patta. This plea of the fourth respondent was accepted by the third respondent when he ordered inclusion of 4th respondent in the patta in which the appellant's name figures right from the inception. The appellant chose to challenge this order



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essentially because he was not heard by the Tahsildar. But, vide the impugned order, the appellant's name has been totally excluded from the patta. In other words, the second respondent in its impugned order has granted a relief which nobody has asked for and to that extent the order of the second respondent is perverse.

6. Mr.K.P.Narayanakumar, learned counsel for the fourth respondent submitted that there are some serious dispute *vis-a-vis* title to the property as well as the location of the property which both the parties herein claim.

7. This Court carefully weighed the rival submissions and finds that there is merit in the submissions of the learned counsel for the appellant. When the fourth respondent did not seek for exclusion of the appellant from the patta passbook, exclusion of his name entirely under the impugned order of the second respondent is an administrative over-reach and is inexplicable.

8. For the present, this Court considers it appropriate to maintain the *status quo ante* that was there prior to the passing of the impugned order of the second respondent, dated 25.06.2013 and to restore the joint patta issued by



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the third respondent vide proceedings, dated 02.12.2010. If any among the parties, namely, the appellant or the fourth respondent is aggrieved, then they have all the rights to approach the civil Court for appropriate remedies. The statement made by the learned counsel for the fourth respondent seems to indicate that there appears to be dispute regarding identity of the property which the fourth respondent and the appellant had purchased. This Court need not remind the parties that issues requiring serious investigation on facts are not the domain of this Court while exercising its jurisdiction under Article 226 of the Constitution.

9. This appeal is allowed in the manner indicated above. No Costs. Consequently, connected Miscellaneous Petitions are closed.

(N.S.S., J.) (P.V.M., J.)
15.04.2024

NCC : Yes/No
Index : Yes/No

PM



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