



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.A.(MD) No.981 of 2016

in WP(MD)No.7854 of 2016

Navaneetha Krishnan @ Ambareesan

...Appellant/Petitioner

-vs-

1.The Secretary to the Government
Land and Revenue
The Government of Tamil Nadu
St.George Fort, Chennai

2.The Special Commissioner and
Commissioner of Land Administration
Chepauk, Chennai-5

3.The District Collector
Virudhunagar
Virudhunagar District

4.The District Revenue Officer
Virudhunagar
Virudhunagar District

5.The Revenue Divisional Officer
Virudhunagar
Virudhunagar District

...Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 22.04.2016, passed in W.P.(MD) No.7854 of 2016, by this Court.

Prayer in WP(MD). 7854/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 5 to consider petitioner's representation dated 30.03.2016 and direct the respondents 1 to 3 to interfere in this regard and set aside the order of the 4th respondent in Na.Ka.No.B2/45907/2008, dated 26.06.2013 and 5th respondent in Nee.Mu.A1/1181/2006, dated 29.10.2008 to grant such relief or further relief as this Court may deem fit and proper in the circumstances of the case.



For Appellant : Mr.S.Samuel James Davasagaya
For Respondents : Mr.D.Muruganantham, A.G.P.,
for R1 & R2

J U D G M E N T

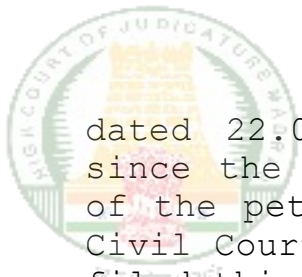
WEB COPY [Judgment of the Court was made by M.SATHYANARAYANAN, J.]

The appellant claims that the property bearing T.S.No.270, Ward-C, Block No.17 in Sattur Village, admeasuring to an extent of 0.2175.0 square meters was his forefather's property and further claims that he is also the Trustee of Yadhava Nandhavanam.

2. It is further submitted by the appellant that one Girija filed a suit in O.S.No.34 of 2003, on the file of the Court of District Munsif at Sattur, against one Ramachandra Konar as well as against him, for declaration and other consequential reliefs and it was dismissed. Challenging the legality of the same, she preferred A.S.No.12 of 2003, before the learned Subordinate Judge, Sivakasi, which was also dismissed on 16.04.2004, and the judgment and decree of the trial Court have become final. Thereafter, the jurisdictional Tahsildar has made entries in the Patta and other connected revenue records in 2004 showing the appellant, who is the son of Karuppiyah Konar, Trustee of Yadhava Nandhavanam, as the owner of the said property.

3. The person opposing his claim was Nalli Mariappan and the fifth respondent, vide order dated 29.10.2008, has directed the jurisdictional Tahsildar to correct the entries with regard to owner of the property as "the Trustee, Yadhava Nandhavanam". Challenging the legality of the same, the appellant filed a revision before the fourth respondent. In the meantime, Sattur Yadhava Community, represented by its Member, filed a suit in O.S.No.95 of 2009, before the Vacation Civil Judge, Virudhunagar at Srivilliputtur, against the appellant herein for declaration and other consequential reliefs. Therefore, the appellant submitted a petition to the fourth respondent to defer the revision proceedings till the disposal of the suit in O.S.No.95 of 2009. However, the fourth respondent passed an order, dated 26.06.2013, confirming the order, dated 29.10.2008, passed by the fifth respondent. Challenging the legality of the said order, the appellant filed W.P.(MD) No.14524 of 2013 and the Single Bench of this Court vide order, dated 10.02.2014, has dismissed the writ petition observing that the Civil Court has to decide the matter independently without being influenced by any of the observations made either by the fifth respondent or by the fourth respondent. However, the appellant filed another writ petition in W.P.(MD) No.7854 of 2016, before the Single Bench of this Court seeking a direction to the respondents therein to consider his representation dated 30.03.2016, and set aside the orders passed by the respondents 4 and 5 therein. The Single Judge, vide order

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dated 22.04.2016, disposed of the writ petition observing that since the suit in O.S.No.95 of 2009 is pending, the apprehension of the petitioner is unfounded and it is for him to approach the Civil Court for appropriate remedy. Aggrieved by the same, he has filed this writ appeal.

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4. The learned counsel for the appellant would submit that in all fairness, the fourth respondent ought to have deferred the revision proceedings till the disposal of the suit in O.S.No.95 of 2009 and instead, ordered change of entries and hence, prays for interference of this Court.

5. Per contra, Mr.D.Muruganantham, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that in the light of the petitioner having been shown as second defendant and second respondent in O.S.No.34 of 2003, on the file of the District Munsif Court, Sattur and A.S.No.12 of 2003, on the file of the Sub Court, Sivakasi, respectively, the present appeal is wholly untenable and prayed for dismissal.

6. This Court has carefully considered the rival submissions and perused the materials produced.

7. As rightly pointed out by the learned Additional Government Pleader appearing for the respondents, the appellant, who is arrayed as second defendant and second respondent, took a stand in the suit as well as in the appeal that the property is a Nandhavanam. However, he has changed his stand and claimed it to be his individual property. The learned Single Judge has taken note of the fact that the matter requires adjudication and relegated the issue to be decided by the Civil Court.

8. In the considered opinion of this Court, the reasons assigned by the learned Single Judge while disposing of the writ petition are in order and do not warrant interference by this Court.

9. In the result, the writ appeal is dismissed confirming the order, dated 22.04.2016, passed in W.P.(MD) No.7854 of 2016. No costs.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To:

1. The Secretary to the Government,
<https://hcservices.ecourts.gov.in/hcservices/>
Land and Revenue, The Government of Tamil Nadu,
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2.The Special Commissioner and
Commissioner of Land Administration,
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Virudhunagar,
Virudhunagar District.

5.The Revenue Divisional Officer,
Virudhunagar,
Virudhunagar District.

+2cc to M/s.S.Samuel James, Advocate in SR.50552
+1cc to the Special Government Pleader, in SR.50918

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06.09.2016

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