



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2016

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**THE HONOURABLE MR. JUSTICE B. RAJENDRAN**

W.P. (MD) No. 2377 of 2016

and

W.M.P. (MD) No. 2111 of 2016

Subbiah

.. Petitioner

Vs.

1. The District Revenue Officer,  
Kanyakumari.

2. The Tahsildar,  
Agasteeswaram Taluk,  
Kanyakumari District.

3. The Executive Officer,  
Subramaniya Swami Temple,  
Tiruchendur,  
Tuticorin.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings vide Na.Ka.No.M4/8660/2011, dated 08.10.2015, passed by the 1<sup>st</sup> respondent, quash the same as illegal and consequentially direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to issue patta in the name of the petitioner in Sy.No.133/1A, 165/14, 165/15, 22/1, 73/2B, 24/5 and 73/7 which extends to 0.37.0 Ares to Vadiveeswaram Village, Agasteeswaram Taluk, Nagercoil, Kanyakumari District.

For petitioner

... Mr.V.Ravichandran

For respondents 1 & 2

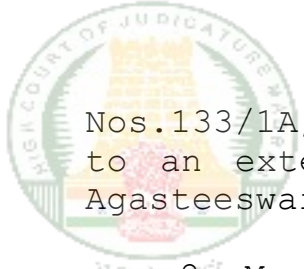
... Mr.J.Gunaseelan Muthaiah,  
Government Advocate

For 3<sup>rd</sup> respondent

... Mr.M.Muthugeethaiyan

ORDER

The Writ Petition has been filed to quash the proceedings in Na.Ka.No.M4/8660/2011, dated 08.10.2015, passed by the 1<sup>st</sup> respondent as illegal and to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to issue patta in the name of the petitioner in respect of Survey



Nos.133/1A, 165/14, 165/15, 22/1, 73/2B, 24/5 and 73/7 measuring to an extent of 0.37.0 Ares situated at Vadiveeswaram Village, Agasteeswaram Taluk, Nagercoil, Kanyakumari District.

2. Mr.V.Ravichandran, learned counsel for the petitioner would contend that the impugned order has been passed rejecting the request of the petitioner to change patta in his name, without any application of mind. He would mainly contend that the third respondent has admitted that no records stand in the name of Subramaniya Swami Temple, Tiruchendur. Therefore, the authority failed to consider that the petitioner's family is entitled to be in possession of the property and the property does not belong to Tiruchendur Subramania Swami Temple.

3. Per contra, the learned counsel for the third respondent Executive Officer, mainly would contend that the petitioner had not taken any steps to transfer the patta in spite of the alleged decree in O.S.No.44/1121(Malayala Year). Even in that suit, the temple is not a party. In that suit, the plaintiff has filed the said suit against his father and obtained order behind the back of the temple and therefore, the decree does not bind on the temple. In the said suit, the plaintiff has questioned the lease executed by his father on behalf of the trust in a representative capacity, whereas in the proceedings, dated 12.09.2014, the Tahsildhar has categorically stated that patta cannot be given in the name of the petitioner as the patta stands in the name of the Kattalai, which is conducted under the Trust. Further, the petitioner has applied for change of patta only after sixteen years, which has been rightly rejected by the second respondent Tahsildar and thereafter, the petitioner preferred appeal before the first respondent District Revenue Officer and the District Revenue Officer has also rightly rejected the appeal. Thereafter, the temple had taken possession and put up a board and included in the Register, which has been intimated to the higher Authorities. Therefore, rightly the order is passed by the first respondent. He further submitted that when the property is not in possession of the petitioner, rightly request of the petitioner has been rejected and the revenue authorities have no authority to go into the civil rights of the parties.

4. The learned Government Advocate for the respondents 1 and 2 would also contend that the petitioner is not in possession of the property and therefore, the first respondent has rightly passed the order rejecting the request of the petitioner and therefore, there is no need to interfere with the order passed by the first respondent.

5. Heard the submissions made on both sides.

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6. Taking into consideration that the petitioner has not taken any steps for the past 16 years for change of patta and therefore,



the first respondent has rightly rejected the appeal filed by the petitioner, I do not find any reason to interfere with the order passed by the first respondent.

7. In the result, the Writ Petition is dismissed confirming the order of the first respondent. . No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1.The District Revenue Officer,  
Kanyakumari.

2.The Tahsildar,  
Agasteeswaram Taluk, Kanyakumari District.

3.The Executive Officer,  
Subramaniya Swami Temple,  
Tiruchendur,  
Tuticorin.

+One cc to Mr.D.Saravanan, Advocate, SR.No.7513  
+One cc to Mr.M.Muthugeethaiyan, Advocate, SR.No.7282  
+One cc to The Special Government Pleader, SR.No.7419

pm

RL/7C/PM/MP/17/2/2016

W.P. (MD) No.2377 of 2016

05.02.2016