



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2017

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**W.A. [MD] .No.693 of 2017
and
C.M.P (MD) .No.5404 of 2017**

L.Seenivasan

Vs.

: Appellant

1. The District Revenue Officer,
Madurai, Madurai District.
2. The Revenue Divisional Officer,
Usilampatti, Madurai District.
3. The Tahsildar,
Thirumangalam Taluk,
Thirumangalam, Madurai District.

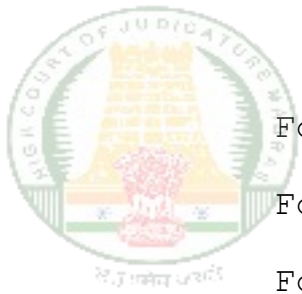
- 4.S.Ganesan
- 5.Venkatasamy Naiakar
- 6.Varatharaj Naikar
- 7.Raja Pandi
- 8.Perumal

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 06.07.2015 made in W.P.(MD).No.9064 of 2013, on the file of this Court.

Prayer in WP(MD). 9064/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the 1st respondent District Revenue Officer in Na.Ka.No.19253/2010/G2 dated 29/03/2013 and quashes the same in so far as cancelling the proceedings issued by the 3rd respondent Tahsildar in RTR.No. 5187/07-08 and TK 8/1499/1420 dated 01/06/2011 alone .



For Appellant : Mr.E.V.N.Siva
For Respondents 1to3 : Mr.V.Muruganantham
Additional Government Pleader
For Respondent No.4 : Mr.K.Seemaraj

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JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.E.V.N.Siva, learned counsel appearing for the appellant, Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.K.Seemaraj, learned counsel appearing for the fourth respondent. Since there was no appearance for the respondents 5 to 8 even in the Writ Petition, notice to the respondents 5 to 8 is dispensed with.

2. The appellant had approached this Court by filing W.P.(MD). No.9064 of 2013, challenging the order passed by the third respondent dated 29.03.2013, insofar as it cancels the proceedings of the third respondent dated 01.06.2011 alone. The said Writ Petition was disposed of, observing that the fourth respondent herein has filed a Civil Suit in O.S.No.168 of 2010, on the file of the District Munsif Court, Thirumangalam, praying for a decree of injunction and if the parties are aggrieved, they can approach the competent Civil Court by way of declaratory suit.

3. The learned counsel appearing for the appellant has drawn our attention to the order passed by the first respondent dated 29.03.2013. From a reading of the said order, it is clear that the Revision Petition was filed by the fourth respondent herein challenging an order dated 12.12.2009. However, the appellant was impleaded as the fifth respondent in the Revision Petition. From a reading of the said order, we find that there is no specific challenge made to the order, granting patta in favour of the appellant and the the first respondent, while passing final orders, in the Penultimate paragraph of the said order, dated 29.03.2013, while setting aside the order dated 12.12.2009 of the third respondent, also set aside the order dated 01.06.2011 passed by the third respondent, by which the name of the appellant was included in the patta. The appellant has, therefore, challenged the said order, stating that without notice to the appellant, such an order was passed and the issue, which was agitated before the first respondent in the Revision Petition filed by the fourth respondent, was only regarding the correctness of the order dated 12.12.2009 and there was no challenge made to the order dated 01.06.2011 and therefore, the order passed by the first respondent dated 29.03.2013 is liable to be set aside, insofar as it relates to the cancellation of patta granted in favour of the appellant,



vide order dated 01.06.2011. However, the Writ Court did not adjudicate upon the above contention, but, the Writ Court has relegated the parties to approach the Civil Court.

4. It is submitted by the learned counsel appearing for the appellant that soon after the disposal of the Writ Petition, the fourth respondent herein withdrawn O.S.No.168 of 2010 and even during the pendency of the said Writ Petition, the appellant had filed O.S.No.44 of 2014, on the file of the District Munsif Court, Thirumangalam, wherein he has sought for a declaratory relief to declare the title over the suit property in question and the said suit is pending trial, in which the respondents 4 to 8 are also defendants.

5. The concern expressed by the learned counsel for the appellant is that the Civil Court would be swayed by the order passed by the first respondent dated 29.03.2013, since the said order dated 01.06.2011 was stated to be implemented by the third respondent, by including the name of the fourth respondent for grant of patta and if the said order passed by the Revenue Authority is allowed to be relied on before the Civil Court, then, no useful purpose would be served.

6. We have heard the learned Additional Government Pleader as well as the learned counsel appearing for the fourth respondent on the above submissions, as noticed above.

7. Admittedly, in the Revision Petition filed by the fourth respondent, he had challenged only the order dated 29.03.2013 and not the order dated 01.06.2011. Therefore, the Revenue Authority could not have set aside the said order, that too, without specifically hearing the appellant on the correctness of the said order. Thus, to that extent, the order passed by the first respondent is liable to be set aside. However, since all the parties are already before the Civil Court and the Suit in O.S.No.44 of 2014 is pending, we issue the following directions, which would meet the ends of justice:-

- Accordingly, the Writ Appeal is allowed and the order dated 29.03.2013 passed by the first respondent is set aside and there shall be a direction to the appellant as well as the respondents 4 to 8 to agitate their right, title and interest over the property in question in O.S.No.44 of 2014, on the file of the District Munsif Court, Thirumangalam and the Civil Court shall decide the title to the property, based on oral and documentary evidence placed before it and will not, in any way, rely upon the orders passed by the Revenue Authority and in particular, the order dated 29.03.2013.

<https://hcservices.ecourts.gov.in/hcservices/>

- In the light of the above direction, we direct the Tahsildar, Thirumangalam Taluk, the third respondent herein, to restore



the revenue entries, which were in existence prior to the order dated 29.03.2013 and shall not effect any mutation in the revenue records, till the suit is decided by the Civil Court and abide by the decree to be passed in the said Civil Suit.

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- We make it clear that we have not gone into the question of title of the appellant and that of the respondents 4 to 8 and it is for the Civil Court to decide the same based on oral and documentary evidence and without being influenced by any of the observations made by us in this Judgment.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
Madurai, Madurai District.
2. The Revenue Divisional Officer,
Usilampatti, Madurai District.
3. The Tahsildar,
Thirumangalam Taluk,
Thirumangalam, Madurai District.

+1cc to Mr.E.V.N.Siva, Advocate Sr.No.61054

+1cc to Spl.Government Pleader Sr.No.61213

+1cc to Mr.K.Seemaraj, Advocate Sr.No.61233

NB

VB/MR/SAR1/03.07.2017/4P/7C

**JUDGMENT MADE IN
W.A. [MD] .No.693 of 2017
20.06.2017**