



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 02.08.2017**

CORAM

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND**

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**W.A. (MD)Nos.477 and 478 of 2013
and**

M.P. (MD)No.1 and 1 of 2013

V.M.P.S.Zakir Hussain (in W.A.(MD)No.477 of 2013)
V.M.P.S.Meera Hussain (in W.A.(MD)No.478 of 2013) ... Appellants

Vs.

1. The District Revenue Officer,
Sivagangai.
2. The Revenue Divisional Officer,
Sivagangai.
3. The Tahsildar,
Sivagangai Taluk.
4. The Joint Director,
Health Department,
Sivagangai.

..Respondents in both Writ Appeals

PRAYER: Writ Appeals are filed under Clause 15 of Letters Patent, against the orders passed by this Court in W.P(MD)No.6026 of 2008 and W.P(MD)No 6027 of 2008, dated 03.04.2013.

Prayer in WP(MD)No.6026,6027 of 2008 :

Writ of certiorari, calling for the records pertaining to the impugned order in Na.Ka.C4/48484/91, dated 25.6.2008 passed by the 1st respondent and quash the same.

For Appellant : Mr.R.Subramanian
For Respondents : Mr.T.R.Janarthanan
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

These Writ Appeals have been filed against the orders passed by this Court in W.P(MD)No.6026 of 2008 and W.P(MD)No.6027 of 2008, dated 03.04.2013, and the writ petitions had been filed



against the order passed by the first respondent, dated 25.06.2008.

2. Heard Mr.R.Subramanian, learned Counsel appearing for the appellants and Mr.T.R.Janarthanan, learned Additional Government Pleader, appearing for the respondents.

3. The learned Counsel for the appellants would submit that if there is a wrong entry in the town survey records, the appellants ought to have been put on notice. The first respondent, who passed the order, contrary to the direction issued on the earlier occasion by this Court, while remanding the matter for fresh consideration.

4. The learned Additional Government Pleader, in the counter affidavit, submitted that the order passed by the Tahsildar, dated 20.11.2000, as against the appellants, there was a mistake committed by the Town Survey Officials during the updation, which cannot be taken advantage by the respondents. Hence this Writ Appeals have been filed.

5. The learned Single Judge has considered the matter in larger extent while dismissing the writ petitions. We are also conscious of the fact that the patta is not a document of the title. There are serious issues involving the disputed land in question, which cannot be decided, though the learned counsel for the appellants would contend that the Advocate Commissioner can be appointed.

6. We are not inclined to go into the merits of the case. In the light of the observations made, we deem fit, the only remedy open to the appellants is to approach the appropriate jurisdictional Court. Therefore to that extent, we find that the order of the learned Single Judge, requires some clarification. Having found that there are disputed question of facts involved, the merits of the case ought not to be gone into, though it can be on a *prima facie* consideration.

7. In such view of the matter, while confirming the order of the learned Single Judge, dismissing these Writ Appeals, we clarify that it would not stand in the way of appellant in seeking adjudication before the Jurisdictional Civil Court, which has to decide this case on its own merit. Consequently, connected M.Ps are closed.

Sd/-

Assistant Registrar(AE)

/True Copy/



To

1. The District Revenue Officer,
Sivagangai.

2. The Revenue Divisional Officer,
Sivagangai.

3. The Tahsildar,
Sivagangai Taluk.

4. The Joint Director,
Health Department,
Sivagangai.

+1cc to Mr.R.Subramanian, Advocate Sr.No.69952

+1cc to Spl.Government Pleader Sr.No.70620

SM/MSA

VB/SKN/RSK/SAR4/18/08/2017/3P/7C

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