

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.22380 of 2018

N.Chandrakumar

... Petitioner

vs.

1. The District Collector,
Villupuram District.

2. The Revenue Divisional Officer,
Thirukovilur,
Villupuram District.

3. The Thasildhar,
Ulundurpet Taluk,
Villupuram District.

4. Mr.Adhimoolam.

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation letter dated 21.05.2018 and further directing the respondents to dispose of revenue proceedings in Na.Ka.a6/8204/2018 issued by the respondents and cancel the illegal patta of 4th respondent in survey no.158/17, 18 in Sembiamadevi Village, Ulundurpet Taluk, Villupuram District.

For Petitioner : Mr.S.Ramajayam

For Respondents: Mr.T.N.Rajagopalan (for R1 to R3)
Government Pleader

ORDER

(Order of the Court was made by SUBRAMONIUM PRASAD, J)

The instant writ petition is for a direction to the respondents to consider the petitioner's representation dated 21.05.2018 and further directing the respondents to dispose of the revenue proceedings in Na.Ka.a6/8204/2018 issued by the respondents 1 to 3 and cancel the illegal patta of the 4th respondent in Survey No.158/17, 18 in Sembiamadevi Village,

Ulundurpet Taluk, Villupuram District.

2. It is the contention of the petitioner that Sri Muthumariaymman Temple, was constructed by the ancestors of the petitioner. The temple has been constructed in Survey No.158/17, 18 in Sembiamadevi Village, Ulundurpet Taluk, Villupuram District and has been classified as a 'Natham' land. It is his allegation that the 4th respondent Mr.Adhimoolam, illegally obtained the patta for this land. The patta has been given on the pathway of the temple property.

3. It is his further contention that the 4th respondent, after obtaining patta, has illegally entered into the property for constructing a house. It is therefore, his contention that he has filed a complaint with the respondents 1 to 3, for cancellation of patta. It is stated by him that, no action has been taken on the complaint/representations.

4. Although it is not stated in the writ petition, but the prayer indicates that there are proceedings in Na.Ka.a6/8204/2018, for cancellation of patta. Material on record, more so, the representation of the people from the village and the proceedings in the meeting conducted, would show that a suit has been filed regarding this property. The details of the suit are not mentioned.

5. Patta does not grant title. Title has to be established in a suit filed before the competent Court. If the 4th respondent does not have title and has encroached the property, the remedy is to file a appropriate suit in a court of competent jurisdiction. If a suit has already been filed, the petitioner can get himself impleaded in the suit and move an appropriate application for an injunction.

6. Section 10 of the Patta Pass Book Act, 1983 provides for a modification of entries in patta pass-book. An application has to be made to the Tahsildar for modification of the entries. Enquiry is conducted by the Tahsildar and modifications are made. The order of the Thasildar can be challenged in an appeal under Seciton 12 of the Patta Passbook Act, 1983 to an authority prescribed under the Act, which is normally the Revenue Divisional Officer. The order of the Revenue Divisional Officer, can be further challenged under Section 13 of the Patta Pass Book Act, 1983 in a revision before the District Revenue Officer.

7. When there is an hierarchy of authorities, a writ remedy cannot be availed of. In any event as stated supra, patta does not give. The remedy lies in a suit, which the record shows, has been initiated. The petitioner if advised, may either file an independent suit or get impleaded in the existing suit and

obtain necessary orders for injunction restraining the 4th respondent from either construction or for any other appropriate relief. Hence, writ petition is dismissed. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

ars/gsp

To

1. The District Collector,
Villupuram District.

2. The Revenue Divisional Officer,
Thirukovilur,
Villupuram District.

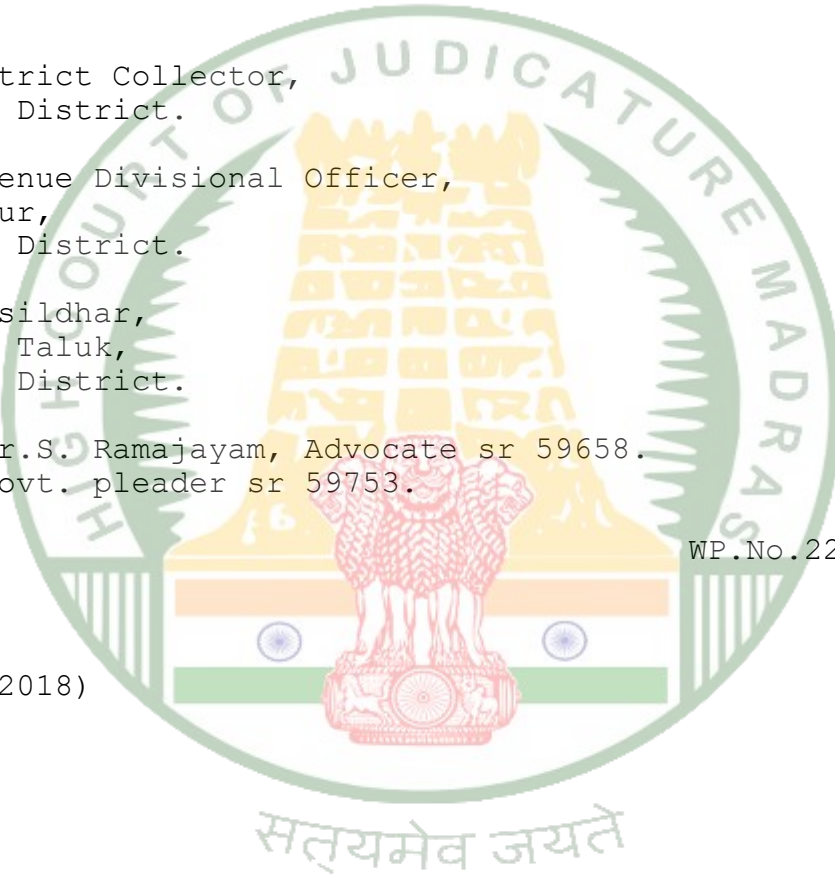
3. The Thasildhar,
Ulundurpet Taluk,
Villupuram District.

+1 CC to Mr.S. Ramajayam, Advocate sr 59658.

+1 cc to Govt. pleader sr 59753.

WP.No.22380 of 2018

AK (CO)
SRG (27/09/2018)



WEB COPY