



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2018

CORAM:

WEB COPY

**THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS. JUSTICE T. KRISHNAVALLI**

W.A (MD) No. 1728 of 2011

and

M.P (MD) No. 1 of 2011

P. Palanikumar

... Appellant/Petitioner

Vs.

1. The District Revenue Officer,
Madurai.

2. The Tahsildar,
Melur, Madurai District.

3. P. Ponnupandi

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 21.11.2011 made in W.P (MD) No. 935 of 2011, on the file of this Court.

Prayer in WP (MD) . 935/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari mandamus calling for the records relating to 1st respondent in his proceedings Na.Ka.No.36337/2010/G2 dated 14/01/2011 and quash the same and direct the 1st respondent to issue patta to the petitioner in respect of the property bearing S.No. 80/5 extent 7 cents pathinettankudi village, Melur taluk, Madurai district and thus render justice.

For Appellant: Mr. PT. S. Narendravasan

For RR 1 & 2 : Mr. Aayiram K. Selvakumar,

Additional Government Pleader.

For R - 3 : Mr. V. Perumal

JUDGMENT

(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)

THIS writ appeal is directed as against the order, dated 21.11.2011 passed in W.P (MD) No. 935 of 2011.



2. The said Writ Petition was filed by the appellant/writ petitioner to issue a Writ of Certiorari Mandamus, to call for the records relating to the first respondent dated 14.01.2011 and quash the same and to direct the first respondent to issue patta to the appellant/writ petitioner in respect of the property bearing S.No.80/5, measuring an extent of 7 cents in Pathinettankudi Village, Melur Taluk, Madurai District.

3. The first respondent/the District Revenue Officer had specifically held that the appellant/writ petitioner working in Keelavalavu Co-operative Society and he had obtained house site patta No.338/31 in the name of his mother. The patta was entered under the UDR scheme wrongly. Therefore, the authorities have made necessary corrections.

4. It is the case of the appellant/writ petitioner that the said order is illegal. Challenging the same, he has filed the Writ Petition.

5. The learned Single Judge, vide order dated 21.11.2011 dismissed the Writ Petition on the ground that the Writ Petition is misconceived and bereft of any legal reason.

6. Aggrieved over the same, the appellant/writ petitioner had preferred the present Writ Appeal.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. It is seen from the records that the appellant/writ petitioner along with others have filed a suit in O.S.No.123 of 2010, on the file of the District Munsif Court, Melur, for the relief of declaration and injunction not to transfer the patta standing in his name and his mother's name. Now, the dispute before the first respondent is about the ownership of the land between them to issue with patta. Further, it is seen from the records that the appellant/writ petitioner had already chosen to move the appellate Court/civil Court for declaration of his title and for consequential injunction.

9. Though on the last date of hearing, it was represented that the suit was dismissed for default, today, it was stated that the said suit was restored to file.

10. When the title is in dispute, it is appropriate for the appellant/writ petitioner to go before the civil Court and this Court cannot give a direction to set aside the order passed by the first respondent, without the title being declared.

<https://hccourtrecords.org/>

11. In such circumstances, this Court directs the



appellant/writ petitioner to proceed with the suit already filed by the appellant/writ petitioner. The civil Court is also directed to try the title dispute uninfluenced by any of the observations made by this Court in the Writ Petition as well as in the Writ Appeal. In the event of success in the suit, it is open to the appellant/writ petitioner to move the Revenue Authorities for appropriate relief.

12. With the above observations, this Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS-I)

To

1.The District Revenue Officer,
Madurai.

2.The Tahsildar,
Melur, Madurai District.

+ 1 CC TO MR.V.PERUMAL, ADVOCATE IN SR NO.89285

+ 1 CC TO MR.PT.S.NARENDRAVASAN, ADVOCATE IN SR NO.89459

PS

BU/RP/SAR-1 :01.11.2018 : 3P/5C

W.A(MD)No.1728 of 2011
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