

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.30204 of 2008
and M.P.Nos.1 of 2008 and 1 of 2011

Vijaya Nirmala

..Petitioner

Vs

1.The District Revenue Officer
Kancheepuram District
Kancheepuram

2.Sukumar

...Respondents

Prayer:- This Writ Petition is filed, under Article 226 of Constitution of India, to issue a writ of Certiorari calling for the entire records culminating in passing of the impugned order proceedings in Na.Ka.77658/99 No.4, dated 09.04.2007 passed by the first respondent herein and quash the same.

For Petitioner : Mr.A.Lakshmi Narasimhan

For Respondents : Mr.B.Anand, Govt.Advocate
for R1
Mr.K.Govi Ganesan, for R2.

ORDER

The petitioner herein challenges the impugned proceedings in Na.Ka.77658/99 No.4, dated 09.04.2007 passed by the first respondent and seeks to quash the same.

2. (a) It is the case of the writ petitioner that his grand father Venkataperumal Reddiar had purchased lands in Peruveli Village, Madurantagam Taluk and obtained patta in Patta No.500 and also obtained patta in other land of Grama Natham in patta No.398. The petitioner had two daughters viz., Sakunthala and Indirani. Both pre-deceased the petitioner's grand father.

(b) Venkataperumal has executed a settlement deed in favour of his grandson Gunasekaran to an extent of 18.33 acres under a Document No.99/72. He further executed another settlement deed in favour of the petitioner viz. Vijaya Nirmala to an extent of 19.01 acres who is also the grand daughter of the said

Venkataperumal.

(c) After the death of Venkataperumal, the above said beneficiaries had applied for patta in their name before the Tahsildar, Madhuranthagam.

(d) The Tahsildar directed them to approach appropriate civil court for their remedy.

(e) Aggrieved over the same, one of the legal heirs namely Sukumar filed an appeal before the Revenue Divisional Officer.

(f) Pending appeal, the Divisional Deputy Tahsildar has ordered to issue patta in the name of Smt.Varalakshmi, W/o.late Venkatapreumal on a finding that she is the legal heir of Venkataperumal.

(g) Aggrieved over the said order, Sukumar preferred an appeal before the Revenue Divisional Officer at Madhuranthagam.

(h) The Revenue Divisional Officer, after careful consideration of the entire documents and evidence, had confirmed the order of Tahsildar, as well as Divisional Deputy Tahsildar, Madhuranthagam.

(i) Against the order passed by the Revenue Divisional Officer, Madhuranthagam, second respondent preferred a revision petition before the 1st respondent/District Revenue Officer.

(j) The Revisional authority/1st respondent, revised the order of the RDO, Madhuranthagam, by setting aside the said order passed by the Deputy Tahsildar and retained the patta in the name of Venkata perumal and directed the parties to approach the civil court for appropriate relief. Challenging the impugned order, the petitioner has filed this writ petition.

3. Learned counsel for the petitioner would submit that the first respondent/District Revenue Officer failed to appreciate the bonafide reason submitted by the Revision Petitioner and the first respondent has not given any cogent reasons while reversing the order of the Revenue Divisional Officer, Madhuranthagam and as such, the conclusion arrived at by the 1st respondent is erroneous in law. Therefore, the impugned order passed by the 1st respondent is unsustainable in law and the same has to be set aside.

4. The learned Government Advocate appearing for the 1st respondent has supported the impugned order dated 09.04.2007 passed by the 1st respondent. He submits that in the impugned order, the parties were informed that if they have any dispute touching on the title of the property, they can approach competent civil forum, to seek their remedy. Therefore, the order of the 1st respondent is perfectly valid. Therefore, the order impugned warrants no interference.

5. In fact, the issue is no more res integra in view of the judgment rendered by a Division Bench, dated 26 October 1994 in

W.A.No.1342 of 1994 in the case of Kuppuswami Nainar Vs. The District Revenue Officer, Thiruvannamalai and others [1995 MLJ 426]. In the said Judgment, the then Chief Justice of this court [K.A.Swami, CJ), held as under:-

"4. Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title whether the order under question should be interfered with. It may be pointed out here that in a petition under Art.226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a civil court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether 'A' party goes to civil court or 'B' party. Therefore, we are of the view that the question of title has to be decided by the civil court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the writ petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned Single Judge, contrary to what we have stated above, shall also stand modified accordingly."

6. In a similar issue, this court has decided that wherever there is a dispute between the private parties relates to title of the lands, the proper forum for the parties to agitate and ventilate their grievances in respect of their title to the said property is only before the competent Civil Forum. The said decision was rendered by a Division Bench of this court, in the case of C.Sabesan Chettiar (deceased) C.T.Saraswathi Achi and others Vs. The District Revenue Officer, Coimbatore District, Coimbatore and others, reported in 2011 (5) CTC 241 (Mad), wherein in paragraphs, 35, 36 and 37, it is held as follows:-

"35. Admittedly, in the instant case on hand, there is a serious dispute with regard to the title of lands measuring an extent of 7.18 acres in S.F.Nos.547 and 548, Kalapatti Village, Coimbatore District. In cases of this nature, it is not open to the Revenue

Authorities, much less the First Respondent / District Revenue Officer, to decide the same. In Civil Law, when there is a dispute between the rival parties touching upon the title to the property, the competent forum would be only the Civil Court. In the instant case, the First Respondent / District Revenue Officer had not followed such a procedure. However, he had chosen to decide the title in respect of the said property mainly relying upon the reports submitted by the Second Respondent / Revenue Divisional Officer and the Third Respondent / Tahsildar.

36. On a careful consideration of the factual position presented in the instant case and in the light of the qualitative and quantitative discussions mentioned supra, we have no hesitation to hold that the dispute between the parties relates to title of the lands measuring an extent of 7.18 acres in S.F.Nos.547 and 548, Kalapatti Village, Coimbatore District and the proper forum for the parties to agitate and ventilate their grievances in respect of their title to the said property is only before the competent Civil Forum. As such, we come to an inevitable conclusion that the Learned Single Judge had rightly held that it is open to the Fourth Respondent/Writ Petitioner and the Deceased Appellant/Fourth Respondent to work out their remedies before the competent Civil Forum in accordance with law. We are also of the considered view that the dispute between the Fourth Respondent/Writ Petitioner and the Deceased Appellant/Fourth Respondent is one of both mixed question of fact and law, which needs to be gone into in detail by means of adducing oral and documentary evidence by examining witnesses as the case may be and the only course open to the parties is to approach the competent Civil Court.

37. In the result, the Writ Appeal is dismissed, leaving the parties to bear their own costs. Consequently, the order passed by the Learned Single Judge is confirmed for the reasons assigned in this Writ Appeal. Connected miscellaneous petition is closed."

7. On analysing the facts and circumstances of the case, following the aforesaid decisions of this court, this court is of the considered view that the order passed by the 1st respondent is perfectly correct and there is no error or illegality found in the said order, to interfere with the same.

8. This court cannot find any merit to set aside the order passed by the 1st respondent invoking powers under Article 226 of the Constitution of India to entertain this writ petition. Accordingly, the Writ Petition stands dismissed. It is for the parties to approach the proper forum to agitate their grievances in respect of the said property. No costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

nvsri

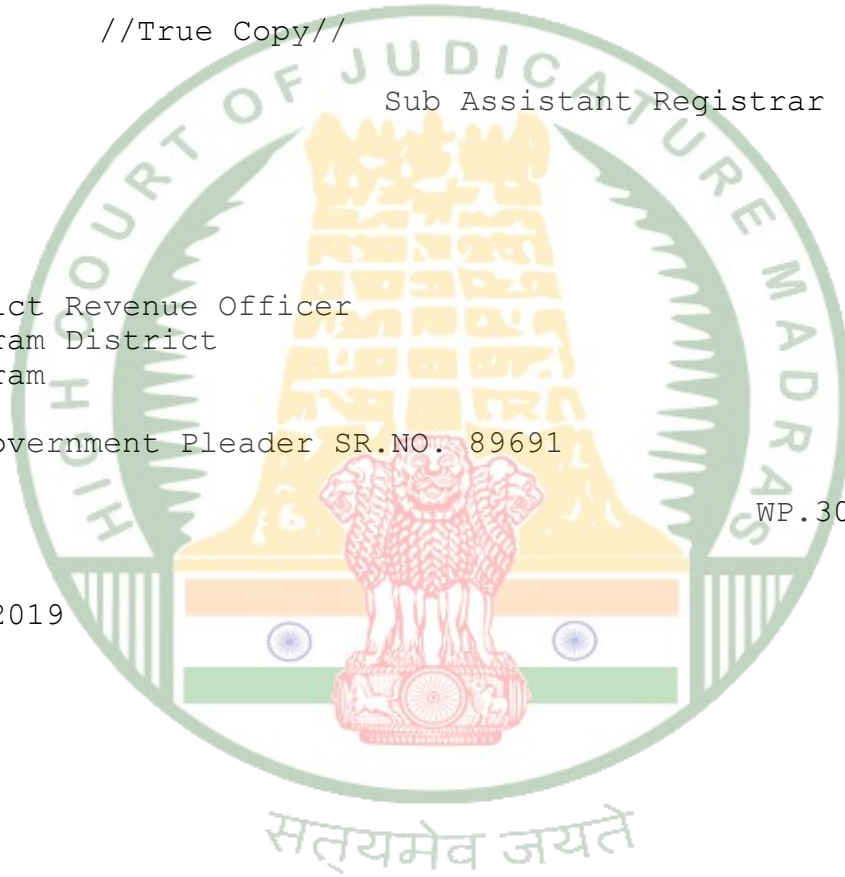
To

The District Revenue Officer
Kancheepuram District
Kancheepuram

+lcc to Government Pleader SR.NO. 89691

WP.30204 of 2008

vba(co)
nr 19/12/2019



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