



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 3454 of 2019

and

W.M.P (MD) .No.2845 of 2019

P.Ranjit

... Petitioner

Vs

- 1.State of Tamil Nadu rep by
District Collector, Dindigul.
- 2.The District Revenue Officer,
Collectorate Office,
Dindigul.
- 3.The Revenue Divisional Officer,
Kodaikannal.
- 4.The Tahsildar,
Kodaikanal.
- 5.Kamaleshwaran

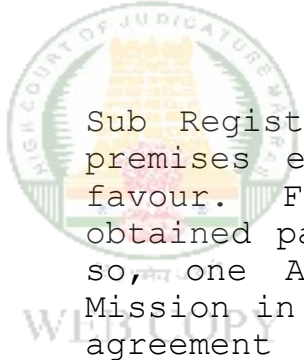
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the third respondent in Na.Ka.No.0078/2018/A2 the enquiry notice issued by him dated 13.02.2018 and quash the same as illegal, arbitrary and without jurisdiction and further forebear the respondents 1 to 4 from entertaining the proceedings with any application by the fifth respondent or anybody claiming under the name and style of "Kremmer Sandegren Foundation or church of Sweden Mission in India or combination of any name in respect of mutation of patta for Survey Nos.5/11B and 5/12 measuring 2.31 acres comprised in Door No.(New No)85/45A, Upper Lake Road, Pambarpuram, Kodaikannal Village, Kodai Taluk, Dindigul District 624 103.

For Petitioner	: Mr.Ramakrishnan Senior Counsel for Mr.K.Saravanan
For R1 to R4	: Mr.M.Rajarajan Government Advocate
For R5	: No appearance

ORDER

The case of the writ petitioner is that his mother and himself are the joint owners of the petition mentioned property. They had purchased the same from one Mrs.Reeta Lankalingam vide a registered sale deed dated 06.04.2006 (Document No.461/2006 on the file of the

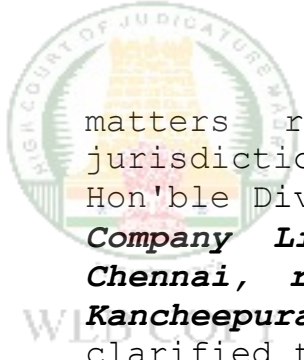


Sub Registrar, Kodaikanal). They are in possession of the said premises ever since. The petitioner's vendor had patta in her favour. Following their purchase in the year 2006, the petitioner obtained patta in respect of the said property in his name. While so, one Ayyavoo George claiming to represent Church of Sweden Mission in India and Kremmer Sandegren Foundation entered into sale agreement with one Mr. Jamal Mohamed, Mr. Ganesa Moorthy and Mr. P. Sekhar in respect of the said property. These persons filed O.S.No.43 of 2006 before the Principal District Judge, Dindigul seeking specific performance of the sale agreement. The petitioner's vendor Mrs. Reeta Lankalingam got herself impleaded in the suit and questioned the authority of Ayyavoo George. The writ petitioner filed O.S.No.2 of 2018 seeking permanent injunction. Both suits were tried together. The suit for specific performance was dismissed and it appears that the judgement and decree made in O.S.No.43 of 2006 had become final. O.S.No.2 of 2008 filed by the writ petitioner for permanent injunction was also dismissed. One ground of dismissal was that the petitioner failed to seek declaratory relief. Questioning the same, the petitioner had filed A.S.No.10 of 2018 before this Court and it is still pending.

2. While so, the fifth respondent herein claiming to be the Vice-President of Kremmer Sandegren Foundation and Church of Sweden Mission in India applied to the Tahsildar, Kodaikanal for mutation of patta /cancellation of patta standing in the name of writ petitioner. Taking cognizance of the same, the Revenue Divisional Officer Tahsildar, Kodaikanal, has issued an enquiry notice to the writ petitioner calling upon him to attend the enquiry. This is challenged in this writ petition.

3. When the matter was taken up for hearing, the Revenue Divisional Officer, Kodaikanal had already passed an order bearing Na.Ka.No.78/2018/m2 dated 13.02.2019 declining to take up the application submitted by the fifth respondent. This should have satisfied the writ petitioner and the writ petition could have been closed as infructuous. But, then as rightly pointed out by the learned Senior Counsel appearing for the writ petitioner, the Revenue Divisional Officer's order dated 13.02.2019 does not full stop. On the other hand, it has only put a semicolon. The trouble has not been nipped in the bud. The Revenue Divisional Officer has informed the fifth respondent that the mutation application submitted by him would be considered only after the conclusion of A.S.No.10 of 2018 filed by the writ petitioner.

4. As rightly pointed out by the learned Senior Counsel appearing for the writ petitioner, the said appeal arises out of suit in O.S.No.2 of 2008 filed by the writ petitioner for permanent injunction. The suit itself suffered dismissal on the ground that no declaratory decree was sought. Of course, few other reasons had been assigned by the learned trial Judge. But, then the question of taking up the application of the fifth respondent after the disposal of A.S.No.10 of 2018 will not arise for the simple reason that in



matters raising contentious title issues, it is only the jurisdictional civil Court that must make the pronouncement. The Hon'ble Division Bench of this Court in the case of **Vishwas Footwear Company Limited, A-2 Third Phase, Guindy Industrial Estate, Chennai, rep., by Director V.Ravi Vs., The District Collector, Kancheepuram and others** reported in (2011) 5 CTC 94 had already clarified the legal position.

5. Notice was ordered to the fifth respondent and he had also been served. But, there is no appearance on his behalf, today when the matter is taken up for hearing. Therefore, the writ petition is disposed of by clarifying that the dispute between the writ petitioner and the fifth respondent should be adjudicated only before the jurisdictional civil Court and that he cannot seek the shortcut of mutation of revenue records. As on date, the writ petitioner has a title in his favour and the revenue records are standing in his favour. If according to the fifth respondent, the writ petitioner has no right or title over the petition mentioned property, the fifth respondent must move the jurisdictional civil Court. The doors of the revenue authority shall remain shut till. The jurisdictional civil Court shall give its decision without being influenced by the observation made in this order.

6. The writ petition is allowed on these terms. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS)

To

1. The District Collector,
State of Tamil Nadu, Dindigul.

2. The District Revenue Officer,
Collectorate Office,
Dindigul.

3. The Revenue Divisional Officer,
Kodaikannal.

4. The Tahsildar,
Kodaikanal.

+1 CC to SPL GP (SR-62152[F] dated 24/04/2019)

+1 CC to Mr.K.SARAVANAN, Advocate (SR-62542[F] dated 25/04/2019)

W.P. (MD) No. 3454 of 2019

23.04.2019