



WEB COPY

W.A.(MD).No.1056 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.1056 of 2019

and

C.M.P. (MD) .No.9652 of 2019

R.Sathyan ... Appellant/4th Respondent

Vs.

1.M.Manivel @ Manivelpandian ...1st Respondent/Petitioner

2.The District Revenue Officer,
Tuticorin,
Tuticorin District.

3.The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

4.The Tahsildar,
Vilathikulam Taluk,
Tuticorin District.

... Respondent Nos.2 to 4/
Respondent Nos.1 to 3

PRAYER: This petition is filed under Clause 15 of Letter Patent, against the order dated 13.03.2019 passed by this Court in W.P.(MD). No.4994 of 2017 dated 13.03.2019.

Prayer in WP(MD). 4994/ 2017 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the Impugned proceedings in Na.Ka.D3/45393/2012 dated 27.02.2017 issued by the 1st Respondent herein and to quash the same as illegal.

For Appellant :Mr.R.J.Karthick

For R1 :Mr.T.A.Ebenezer

For R2 to R4 :Mr.A.K.Baskara Pandian
Special Government Pleader



JUDGMENT

(Judgment of this Court was delivered by **T.S.SIVAGNANAM, J**)

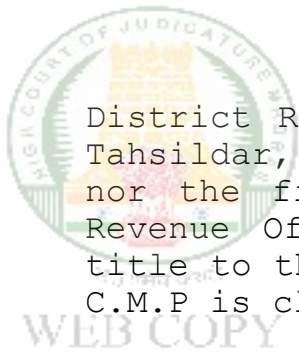
Heard Mr.R.J.Karthick, learned counsel appearing for the appellant, Mr.T.A.Ebenezer, learned counsel appearing for the first respondent and Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondent Nos.2 to 4.

2.By consent on either side, this writ appeal is taken up for disposal.

3.The first respondent filed the writ petition in W.P.(MD). No.4994 of 2017 dated 13.03.2019, challenging the order passed by the District Revenue Officer, Thoothukudi, dated 27.02.2017, by which, the first respondent challenging the order passed by the Revenue Divisional Officer, Kovilpatti, was dismissed. The Writ Court, by the impugned order, dated 13.03.2019, rightly held that the dispute between the appellant and the first respondent/writ petitioner has to be resolved only before the Civil Court. This position was made very clear in Paragraph No.4 of the impugned order. The appellant cannot be aggrieved by such a finding, but what the appellant is aggrieved, is the ultimate decision rendered in the writ petition in Paragraph No.5, whereby the writ petition was allowed and the impugned order dated 27.02.2017 passed by the District Revenue Officer, was set aside.

4.In our considered view, once the Court has taken a decision that the parties have to agitate their title before the Civil Court, the entry which was prevailing prior to the filing of the writ petition, ie., in the revenue records should have been directed to be maintained by directing the parties to approach the Civil Court and lead oral and documentary evidence. Further, there should have been further observation that neither the appellant nor the first respondent can place any reliance on the orders passed by the District Revenue Officer or the Revenue Divisional Officer, to advance their case before the Civil Court. If such a direction would have been issued, then it would have protected the rights of both parties.

5.Since this has not been done, we are inclined to do so in this appeal. Accordingly, this appeal is allowed and the order passed by the learned writ Court setting aside the order of the District Revenue Officer is quashed and the direction is issued to restore the revenue entries as it was prevailing prior to the filing of the writ petition. Such revenue entries should be maintained and no further changes should be recorded, both the appellant and the first respondent shall agitate their title to the subject properties before the Civil Court and the Civil Court shall decide the title based on the oral and documentary evidence placed before it and not in any manner to be influenced by any of the observation made by the



District Revenue Officer or the Revenue Divisional Officer and the Tahsildar, Vilathikulam Taluk. In other words, neither the appellant nor the first respondent can rely upon the orders passed by the Revenue Officer to advance their arguments to substantiate their title to the subject property. No costs. Consequently, the connected C.M.P is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The District Revenue Officer,
Tuticorin,
Tuticorin District.
- 2.The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.
- 3.The Tahsildar,
Vilathikulam Taluk,
Tuticorin District.

+1 CC to Mr.T.A.EBENEZER, Advocate (SR-93590[F] dated 22/10/2019)

+1 CC to Mr.R.J.KARTHICK, Advocate (SR-93821[F] dated 23/10/2019)

+1 CC to M/s.GP (SR-94052[F] dated 23/10/2019)

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VB(15.11.2019) 3P 7C