



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **21.08.2019**
CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.18164 of 2019

Gurunathan

... Petitioner

-Vs-

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The District Revenue Officer,
Thanjavur District,
Thanjavur.
- 3.The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.
- 4.The Tahsildar,
Kumbakonam Taluk Office,
Kumbakonam,
Thanjavur District.
- 5.The Surveyor,
Kumbakonam Taluk Office,
Kumbakonam,
Thanjavur District.
- 6.The Assistant Commissioner/Executive Officer,
Arulmigu Naganatha Swamy Temple,
Thirunageshwaram,
Kumbakonam Taluk,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the fourth respondent to subdivide and issue the separate house site patta in the petitioner favour with regard to lands in Survey No.195/1 to extent of 920 sq.ft situated Thirunageshwaram Village, 116, Sannapuram Vattam Kumbakonam Taluk, Thanjavur District based on the petitioner's representation dated 26.07.2018.

For Petitioner : Mr.G.Gomathi Sankar



For Respondents : Mr.B.Bhagawathi (for R1 to R5)
Government Advocate
Mr.Chandrasekar (for R6)

ORDER

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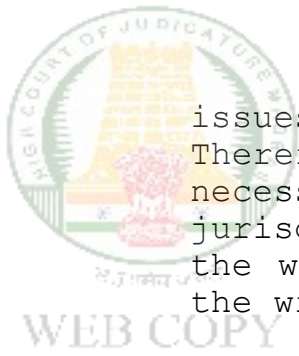
The prayer sought for in this writ petition is that, to direct the fourth respondent to subdivide and issue separate house site patta in favour of the petitioner with regard to lands in Survey No.195/1 to extent of 920 sq.ft situated at Thirunageshwaram Village 116, Sannapuram Vattam Kumbakonam Taluk, Thanjavur District, based on the petitioner's representation, dated 26.07.2018.

2.Heard Mr.G.Gomathi Sankar, learned counsel appearing for the petitioner, Mr.B.Bhagawathi, learned Government Advocate appearing for the respondents 1 to 5 and Mr.Chandrasekar, learned counsel appearing for the sixth respondent.

3.Though the petitioner has sought for subdivision and issuance of patta in respect of the land, where the petitioner claimed to have been residing i.e., at Survey No.195/1 to extent of 920 sq.ft situated at Thirunageshwaram Village 116, Sannapuram Vattam Kumbakonam Taluk, Thanjavur District and for the said relief, he has given a representation to the fourth respondent on 26.07.2018, the learned counsel appearing for the petitioner has fairly submitted that, for the similar relief some other writ petitions have been filed by similarly placed persons before this Court, where some of the writ petitions have been disposed of by this Court, by order dated 04.06.2019, in W.P(MD).Nos.4202, 6674 and 7865 of 2019, where the learned Judge directing the parties to go to the civil Court and establish right to get patta, since there is a serious title dispute between the petitioner as well as the sixth respondent/temple. In this context, he relied upon the order passed by the learned Judge, dated 04.06.2019, where the operative portion reads thus:-

"....

7.Be that as it may. When there is a serious title issue, the revenue authority may not really be in a position to adjudicate the claims. It is only the competent Civil Court that can pronounce definitely in the matter. The reliance placed by the writ petitioners on the Judgement and Decree made in A.S.No.95 of 1946 on the file of the Sub Court, Kumbakonam, may not be of much avail. This is because, the findings that appears to have been given therein is that the temple has no title to the suit property which is 20 feet by 19 feet. The petitioners will have to necessarily file a civil suit for establishing their title against the temple in question. Only thereafter, they will be entitled to claim patta. I have not gone into the merits of the matter. In the very nature of things, such factual



issues cannot be adjudicated in writ proceedings. Therefore, the contesting parties will have to be necessarily relegated to move the competent and jurisdictional Civil Court. Thus, granting liberty to the writ petitioners to move the competent Civil Court, the writ petitions stand dismissed. No costs."

4.The learned Standing Counsel appearing for the sixth respondent would also submit that, number of writ petitions though have been filed for the similar relief by similarly placed persons, in some of the writ petitions, orders have been passed directing the parties to approach the Civil Court and in some of the cases, though orders have been reserved, they are yet to be pronounced.

5.Be that as it may, the learned counsel for the sixth respondent submitted that, insofar as the present relief asked for the petitioner is concerned, he is also noway superior than the said petitioner. Therefore, in this case also, it is open to the petitioner to approach the Civil Court to establish his right. Therefore, taking into account the earlier order passed by this Court, referred to above, this writ petition can be disposed of.

6.I have heard the learned Government Advocate appearing for the respondents 1 to 5, who would also make similar submissions.

7.Having regard to the said submissions made by the parties and by taking into account the earlier order passed by this Court in in W.P(MD).Nos.4202, 6674 and 7865 of 2019, dated 04.06.2019, this Court is inclined to dispose of this writ petition with the following directions:-

"that it is open to the petitioner to approach the competent Civil Court to establish his right to get title of the property in question, where he claimed to have been residing for longer years and till such a decision is taken, the petitioner may not be entitled to seek any benefit for issuance of patta from the revenue authorities, but at the same time since the petitioner is in possession of the land in question, his possession shall not be disturbed, unless a decision is made in contrary to that by the competent Civil Court.

In this regard, the petitioner is expected to approach the competent Civil Court, within a period of one month from the date of receipt of a copy of this order, failing which, the order protecting the possession of the petitioner for the land in question shall not stand in the way for the official respondents i.e., the sixth respondent to proceed against the petitioner in accordance with law."



8. With these observations, this Writ Petition is disposed of.
No costs.

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Sd/-

Assistant Registrar (AS)

Sub Assistant Registrar (CS)

rmk

To

1. The District Collector,
Thanjavur District,
Thanjavur.
2. The District Revenue Officer,
Thanjavur District,
Thanjavur.
3. The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.
4. The Tahsildar,
Kumbakonam Taluk Office,
Kumbakonam,
Thanjavur District.
5. The Surveyor,
Kumbakonam Taluk Office,
Kumbakonam,
Thanjavur District.

+1 CC to Mr.G. GOMATHI SANKAR, Advocate (SR-82958[F] dated
22/08/2019)

+1 CC to SPL GP (SR-83212[F] dated 22/08/2019)

W.P.(MD)No.18164 of 2019

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MK (31.12.2019) 4P 8C