



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.09.2019
CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD)No.20689 of 2019
and
WMP (MD)No.17311 of 2019

S.K.Veluchamy

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment,
Sivagangai District.

2.The Fit Person/Executive Officer,
Arulmigy Viswanathasamy Temply,
Sivakasi,
Virudhunagar District.

3.The District Revenue Officer,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari Calling for the records of the 3rd respondent dated 18.9.2019 in proceedings Na.Ka.No.Aa2/1704/2019 quash the same as the same is arbitrary ultravires in excess of jurisdiction as a civil suit in O.S.No.158/2019, pending on the file of District Munsif Court, Sivakasi in respect of the property comprised in T.S.No.22, Sivakasi Taluk, Virudhunagar District.

For Petitioner : Mr.R.G.Shankar Ganesh
For R1 : Mr.V.R.Shanmuganathan
Special Government Pleader
For R2 : Mr.P.Mahendran
For R3 : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

This writ petition is filed challenging the impugned order of the third respondent dated 18.09.2019 calling for the petitioner for enquiry to be held on 26.09.2019.



2.By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3.The petitioner is the pattadhar of the land in T.S.No.22, Sivakasi Taluk, Virudhunagar District. He claimed to be a trustee of the temple adjacent to his land. Recently, the first respondent has appointed the second respondent as a fit person. The second respondent made an application before the third respondent for transfer of name in the patta. Pursuant to which, the third respondent has issued notice on 18.09.2019. In the meanwhile, the petitioner has filed a suit for bare injunction restraining the second respondent from interfering with the possession. It is the contention of the petitioner that during pendency of civil suit, the third respondent is not entitled to decide the title of the petitioner and transfer of patta. The learned counsel for the petitioner would rely on the order of this Court in WP.No.40358 of 2016, dated 12.06.2018 [N.Narayana Reddy vs. The District Revenue Officer and others], wherein it is held that the Revenue Officials are not empowered to decide the title or ownership of the property in question.

4.I do agree with the observation of the learned Judge. The Revenue Officials cannot decide the title of the property. But, in the present case, the civil proceedings pending before the Court is for bare injunction on the basis of title claimed by the petitioner. In so far as the transfer of patta is concerned, the third respondent/District Revenue Officer is conducting enquiry, pursuant to the mistake happened in UDR proceedings. Therefore, the proceedings with regard to transfer of patta based on UDR proceedings cannot be stalled, in view of the injunction suit filed by the petitioner. For the purpose of deciding the matter, the enquiring authority shall apply his mind to *prima facie* title and possession over the disputed property. That cannot be presumed that a declaration of title is given by the revenue official. However, it is made clear that while deciding the issue of transfer of patta and the mistakes crept in UDR proceedings, the third respondent is not empowered to decide the title.

5.The writ petition is disposed of with the above observation. No costs. Consequently, WMP(MD)No.17311 of 2019 is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Joint Commissioner,
Hindu Religious and Charitable
Endowment,
Sivagangai District.

2.The District Revenue Officer,
Virudhunagar District.

+1 CC to Mr.P.MAHENDAN, Advocate (SR-89674[F] dated 26/09/2019)

+1 CC to spl.GP (SR-89820[F] dated 26/09/2019)

+1 CC to Mr.R.G.SHANKAR GANESH, Advocate (SR-89930[F] dated
27/09/2019)

W.P. (MD) No.20689 of 2019
25.09.2019

MJ

MK (10.10.2019) 3P 6C