



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 17990 of 2018

and

W.M.P. (MD) Nos. 15701 and 15873 of 2018

1. R. Umakanthan
2. R. Kumara Giri

... Petitioners

Vs.

1. The District Revenue Officer,
O/o the District Revenue Officer,
Collectorate Campus,
Theni District.

2. The Tahsildar,
O/o the Tahsildar,
Uthamapalayam Taluk,
Theni District.

3. A. Raj @ Karuppan Chettiyar
4. A. Balau @ Kalanthinathan
5. T. K. S. Manoharan
6. S. D. Gopinath
7. G. Vimala
8. J. Nandhini
9. S. Rangalatha
10. P. Meena Kumari

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to grant separate patta in favour of the petitioners for his properties in S.No. 197/1B, 199, 200/1 in C. Pudupatti Village, Uthamapalayam Taluk, Theni District to an extent of 3 acres 22 cents.

For Petitioners : Mr. T. Lajapathi Roy

For Respondents : Mr. C. M. Mari Chelliah Prabhu,
AGP for R1 and R2

**ORDER**

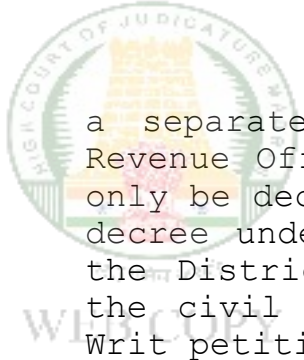
The prayer in the Writ petition is for a Writ of Mandamus, directing the respondents 1 and 2 to grant separate patta in favour of the petitioners for his properties in Survey Nos.197/1B, 199 & 200/1 to an extent of 3 acres 22 cents at K.Pudupatti Village, Uthamapalayam Taluk, Theni District.

2.Heard Mr.T.Lajapathi Roy, learned counsel for the petitioners, Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader appearing for the respondents 1 & 2 and Mr.M.Mahaboob Athiff, learned counsel appearing for the respondents 3 to 10.

3.In respect of the land at Survey No.197/1B, 199 and 200/1 at K.Pudupatti Village, Uthamapalayam Taulk, Theni District to the extent of 3.22 acres, there has been a dispute between the petitioners and the private respondents as it seems a joint patta had been issued by the Tahsildar concerned in the name of the private respondents. Aggrieved over the same, the petitioners preferred a revision before the District Revenue Officer, Theni, the first respondent herein, who by the order dated 21.12.2010 has rejected the said revision, directing the parties to approach the competent civil court to establish their right as the plea raised by the petitioner before the DRO is nothing but a decision on the title, for which, the first respondent is not empowered to.

4.I have gone through the said order passed by the District Revenue Officer and after having heard the learned counsel for the parties, I find that already the private respondents and others have filed a suit before the competent civil court for a bare injunction in respect of management of the properties pertaining to the partnership, where the private respondents and the father of the petitioners were partners and the said suit was dismissed on merits. Therefore, citing the said decision, the learned counsel appearing for the petitioners would submit that, since already they approached the competent Civil court and suffered with a decree and judgment and therefore, driving the parties to approach the civil court once again by the orders of the District Revenue Officer may not be justifiable and therefore, on that ground, the petitioners seeks indulgence of this Court in this Writ petition with the aforesaid prayer.

5.The said suit filed by the private respondents are in respect of management of the properties by way of bare injunction and that was decided by the civil Court, where the title over the property in question has not been decided. Now, since the petitioners seek cancellation of joint patta in favour of the private respondents, pertaining to the property in question and want



a separate patta in the name of the petitioners, the District Revenue Officer has taken a right decision that the said issue can only be decided by the competent civil Court by way of a declaratory decree under which, title of parties can be decided and therefore, the District Revenue Officer has directed the parties to approach the civil Court. Even without challenging the same, the present Writ petition has been filed.

6. After having gone through the said order passed by the District Revenue Officer, this Court is of the view that, the stand taken by the District Revenue Officer in driving the parties to approach the civil Court to establish their right, is the correct approach as the revenue authorities do not have the power and jurisdiction to decide the title and in that view of the matter, this Court finds there is absolutely no error in the said view taken by the District Revenue Officer and since that order of the District Revenue Officer stands good, the prayer now sought for by way of mandamus by the petitioners cannot be granted. In that view of the matter, this Court is not inclined to accept the prayer sought for herein. Accordingly, the Writ petition fails and hence, the same is dismissed.

7. However, it is open to the petitioners to approach the competent Civil court by instituting appropriate civil proceedings to establish their right and they can seek whatever interim protection from the competent civil Court. However, till such time, ie., within a period of 3 months from the date of receipt of a copy of this order, the possession with regard to the property in question between the petitioners and the private respondents, shall not be disturbed by each other i.e, **status quo** with regard to the possession of the property as on today shall be maintained by both parties and this interim arrangement of maintaining status quo with regard to the possession of the property in question shall be for a three months period, within which, parties are expected to approach the competent civil court and get an interim arrangement.

8. This Writ petition is disposed of accordingly. No costs. Consequently, connected W.M.Ps. are closed.

Sd/-

Assistant Registrar (CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Revenue Officer,
O/o the District Revenue Officer,
Collectorate Campus,
Theni District.



2.The Tahsildar,
O/o the Tahsildar,
Uthamapalayam Taluk,
Theni District.

WEB COPY

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-75631[F] dated
17/07/2019)

W.P. (MD) No.17990 of 2018
15.07.2019

nbj

JM/04.09.2019/4P/4C