IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 63 of 2020
and
W.M.P. Nos. 68, 1932 and 1933 of 2020

M.Veerabhadran Naidu ...Petitioner

-vs-

1. The District Revenue Officer
   cum Additional District Magistrate,
   Kancheepuram.

2. The Revenue District Officer,
   Chengalpattu.

3. The Tahsildar,
   Thiruporur Taluk,
   Chengalpattu District.

4. Srikanth Anandal ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings dated 26.11.2019 of the First Respondent in Na. Ka. No. 8232/2019/No.4, quash the same and for a direction, directing the Third Respondent to issue patta in the name of the Petitioner in respect of the land in Survey No. 198/2B, Kalavakkam Village, Tiruporur Taluk, Chengalpattu District.

For Petitioner : Mr. R. Saravanakumar

For Respondents: Mr. P.H. Arvindh Pandian,
Additional Advocate General
assisted by
Mr. G.K. Muthukumar,
Special Government Pleader
(for R1 to R3)

Mr.Sathish Parasaran,Senior Counsel
assisted by Mr.R.Parthasarathy(for R4)

ORDER

Heard Mr.R.Saravanakumar, Learned Counsel for the Petitioner, Mr.P.H.Arvindh Pandian, Learned Additional Advocate General assisted by Mr.G.K.Muthukumar, Learned Special Government Pleader appearing for the First to Third Respondents and Mr.Sathish Parasaran, Learned Senior Counsel assisted by Mr. R.Parthasarathy, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order No. Na. Ka. 8232/2019/No.4 dated 26.11.2019 passed by the District Revenue Officer setting aside the order of the Revenue Divisional Officer, granting certain rights in respect of 4 cents out of 11 cents in Survey No. 198/2B, Kalavakkam Village Thiruporur Taluk, Chengalpattu District as claimed by the Fourth Respondent and directing the parties to work out their rights before the jurisdictional Civil Court. It is also borne out from the proceedings of the revenue authorities that the Fourth Respondent has made a rival claim to a larger extent of property which includes the portion sought by the Petitioner. It is now settled legal position as held by the Division Bench of this Court in Kuppuswamy Nainar vs. The District Revenue Officer [(1995) 1 MLJ 426], which has been restated by another Division Bench in Vishwas Footwear Company Ltd., vs. District Collector, Kancheepuram [2011 (5) CTC 94] that where there is a dispute relating to the title of the property, the revenue authorities cannot adjudicate upon the same and would have to necessarily relegate the parties to the jurisdictional Civil Court for determination in that regard and depending upon its ultimate outcome, it would be open to the successful party to thereafter to apply before the concerned Revenue Authorities for mutation of records relating to the property in his favour. Since the impugned order is in conformity with that position of law, it does not require any interference by this Court.

3. Learned Counsel for the Petitioner has also brought to notice that the Petitioner has already filed a suit in O.S. No. 21 of 2020 before the Subordinate Court, Chengalpattu, after the filing of the Writ Petition, in which he has sought for declaration of title to an extent of 4 cents out of 11 cents in that property, which is pending.

4. It is complained by the Learned Senior Counsel appearing for the Fourth Respondent that under the guise of the interim order dated 06.01.2020 in W.M.P. No.68 of 2020 passed by this Court, the Petitioner who was not at all in possession of the property then, illegally trespassed into a portion and had started constructions, though such illegal activities have been

prevented from being proceeded further in view of the subsequent orders dated 27.01.2020 and 21.02.2020 passed by this Court, and a fervent plea is made that the Petitioner must be directed to restore possession of the property now occupied by him to the Fourth Respondent immediately. When it is pointed out that the Hon'ble Supreme Court of India in Roshna T -vs- Abdul Azeez K.T. [(2019) 2 SCC 329] has reiterated that the law that disputed questions of fact relating to property rights, which are private in character and do not have any element of public law involved, require full-fledged trial by recording of evidence of parties and cannot be decided in a summary manner in proceedings under Article 226 of the Constitution of India, and the parties have to relegated to the Civil Court, it is informed by the learned Senior Counsel appearing for the Fourth Respondent that a counter-claim would be filed by the Fourth Respondent in the aforesaid suit filed by the Petitioner, seeking for his eviction from the property now occupied by him and other incidental reliefs.

5. In view of the dictum laid down by the Hon'ble Supreme Court in Muddasani Venkata -vs- Muddasani Venkata Sarojana [(2016) 12 SCC 288] that entries of possession made in revenue records do not give any right to claim title to the property, the Civil Court shall not be influenced or inhibited by the past entries made in the revenue records in favour of either of the parties, and the question of ownership of that property would have to be independently determined on merits considering the pleadings and the evidence adduced by the contesting parties in accordance with law. That apart, in view of the doctrine of lis pendens embodied in Section 52 of the Transfer of Property Act, 1882, none of the parties to that suit shall alienate or create any form of encumbrance or third party interests in the property, without the prior permission of the Civil Court during its pendency. Though obvious, it is clarified that no view has been expressed by this Court on the correctness or entitlement on the merits of the divergent claims (for title and possession) relating to the property made by the Petitioner and the Fourth Respondent.

6. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vjt

To

1.The District Revenue Officer
cum Additional District Magistrate,
Kancheepuram.

2.The Revenue District Officer,
Chengalpattu.

3.The Tahsildar,
Thiruporur Taluk,
Chengalpattu District.

+1cc to Mr.R.Parthasarathy, Advocate, S.R.No.17613

+1cc to the Government Pleader, S.R.No.17751

W.P. No. 63 of 2020

NRC(CO)
RN(05/06/2020)