

In the High Court of Judicature at Madras

Dated : 30.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.7409 of 2017

Mr.M.Kalaiselvan

...Petitioner

Vs

1.The District Collector, Collectorate,
Kancheepuram District.

2.The Tahsildar, Thriukazhukundram
Taluk, Kancheepuram District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the 2nd respondent to survey and issue patta in the name of petitioner by name transfer from his father for the Survey number:107/1D extent of 0.07.0 Are or 0.18 Cents situated at Kuzhipanthandalam Village, Thriukazhukundram Taluk, Kancheepuram.

For Petitioner : No appearance

For Respondents : Mr.G.B.Rajesh, GA

ORDER

None appears for the petitioner.

2. The petitioner seeks a direction to the second respondent to issue patta in the name of the petitioner by effecting name transfer from the name of his father in respect of the property in survey No.107/1D measuring an extent of 0.70.0 Are or 0.18 cent situated at Kuzhipanthandalam Village, Thriukazhukundram Taluk, Kancheepuram.

3. The petitioner would state that earlier, he approached this Court by filing W.P.No.17223 of 2011 to direct the Tahsildar concerned and the Head Surveyor concerned to grant patta. However, there appears to have been a criminal proceeding, which was ultimately pending before this Court in CrI.R.C.No.1366 of 2016 and it was finally disposed of by order dated 22.11.2016. The petitioner would further state that in the

meantime, he had given a complaint to the Director General of Police on 09.8.2011 against the rival party and that the matter stood transferred to the Land Grabbing Cell at Kanchipuram. Though the complaint was transferred, no first information report was registered and therefore, CrI.O.P.No.31617 of 2014 was filed, in which, a direction was issued and belatedly, the first information report was registered on 14.1.2015 in Crime No.25 of 2015.

4. The said criminal revision case arose out of an order passed on the protest petition filed by the petitioner whereby the first information report was closed.

5. The petitioner would also state that while disposing of CrI.R.C.No. 1366 of 2016, this Court made an observation that it is open to the petitioner to ignore the document, which, according to him, is an illegal document.

6. In fact, on a perusal of the order passed in CrI.R.C.No.1366 of 2016 dated 22.11.2016, it is clear that the complaint was closed on the ground that no offence was made out and that the issue is purely civil in nature. This Court made a further observation to the effect that it is open to the petitioner to ignore the document and protect his right over the property. This observation made would mean that the petitioner should resort to legal procedure to ignore the document and cannot mislead the observations made by this Court.

7. The second respondent has filed a counter affidavit wherein it has been stated that the petitioner's father himself executed a sale deed in respect of the property in the year 1971 and that the same was not questioned till date. Therefore, it is contended that the petitioner has no right over the property and that the only remedy available to the petitioner is to approach the civil court.

8. From the counter filed by the second respondent, it is further seen that the order and directions issued in W.P.No.17223 of 2011 have been complied with and that the second respondent passed an order dated 22.11.2011 in Mu.Mu.No.1648/2011/B1 wherein the petitioner was directed to approach the civil court and seek appropriate remedy.

9. It is submitted by the learned Government Advocate that the petitioner has not challenged the said order nor approached the civil court.

10. Considering all these facts, the prayer sought for in this writ petition cannot be granted.

11. Accordingly, the above writ petition is dismissed.

12. However, it is open to the petitioner to approach the civil court for appropriate relief.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

To

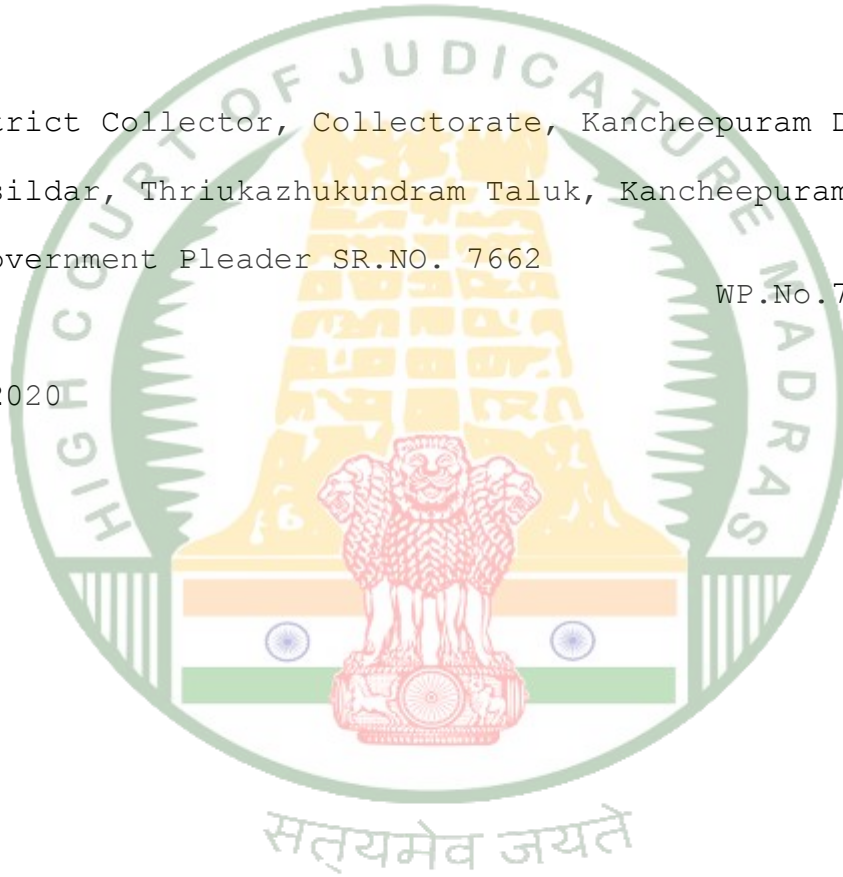
1.The District Collector, Collectorate, Kancheepuram District.

2.The Tahsildar, Thriukazhukundram Taluk, Kancheepuram District.

+1cc to Government Pleader SR.NO. 7662

WP.No.7409 of 2017

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