



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **30.07.2020**

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.13825 of 2011

P.Mookan

...Petitioner

Vs

1.The District Revenue Officer,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
Madurai North Taluk,
Madurai.

4.Shanmugam

5.Poopandi

6.Zeenath Beevi

7.Elanthiraiyan

8.Nasrudin

...Respondents

Prayer in WP(MD). 13825/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records relating to the 1st Respondent in his proceedings Na.Ka.No.4501/05/G2, dated 21-12-2010 confirming the order of the 2nd Respondent in his proceedings Ne.Mo.2/2003, dated 06-12-2004 confirming the orders of the 3rd Respondent in RTR 62/98-99, dated 09-06-1998; RTR 1821/99, dated 10-02-2000 and RTR 2912/00-20 dated 22-01-2001 issuing Patta in respect of 20 cents in S.No.48/8 Uthankudi Village, Madurai North Taluk and quash the same and further direct the Respondents to issue Patta to the petitioner with regarding to the said property.

For Petitioner : Mr.P.T.S.arendravasan

For R1 to R3 : Mr.R.Sethuraman

Special Government Pleader

For R5 : Mr.R.Suriya Narayanan



ORDER

Challenging the order passed in Na.Ka.No.B2/7806/2010 dated 01.10.2011 by the 1st respondent, the present writ petition has been filed.

2. According to the petitioner, he has filed a suit in O.S.No.574 of 1985 on the file of the Sub Court, Madurai, for partition against the 4th respondent, her wife and others and the same is still pending. The subject matter of the property in S.No.48/8, measuring to an extent of 20 cents is also one of the suit properties in the partition suit.

3. At this juncture, the wife of the 4th respondent, namely, Sundarambal, sold the property in S.No.48/8, measuring to an extent of 20 cents out of the total extent of 1 acre 81 cents, which is, according to the petitioner, in his possession and enjoyment, situated at Uthankudi Village, Madurai North Taluk, to the respondents 5 to 8 herein, by an unregistered settlement deed, which is not valid in law.

4. Based on the aforesaid sale deed, the 5th respondent filed a suit in O.S.No.32 of 2001 for bare injunction against the petitioner and the same was decreed, against which, the petitioner preferred an appeal in A.S.No.227 of 2001 and the appellate Court has also allowed the appeal and remitted back the matter to the trial Court.

5. In the meantime, the respondents 5 to 8 filed a petition before the 3rd respondent to change the entries in the revenue records and to issue a patta to them. Without issuing any notice and conducting an enquiry, the 3rd respondent issued patta to the respondents 5 to 8. Challenging the same, the petitioner has preferred an appeal before the 2nd respondent on

27.09.2002 and the same was dismissed on 06.12.2004. As against the order dated 06.12.2004, the petitioner has preferred a revision before the 1st respondent and the same has been dismissed, by order dated 21.12.2010, stating that the petitioner has to approach the civil Court. Challenging the same, the petitioner is before this Court.

6. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the petitioner has to approach the civil Court in the light of the decisions made by this Court in **Kuppuswami Nainar Vs. The District Revenue Officer and others** reported in (1995) 1 MLJ 426, in which, this Court has held as follows:-

"3. No provision is brought to our notice in the Standing Orders of the Board of revenue taking away the jurisdiction of the civil Court to adjudicate upon the question of title relating to immovable property.



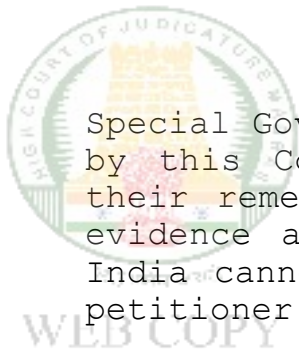
Revenue officers in a patta proceedings may express their views on the question of title, but such expression or decision is not conclusive and it is only intended to support their decision for granting patta. Ultimately, it is the civil Court which has to adjudicate the

question as to whether the person claiming patta is the title-holder of the land. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil Court, which has to decide the question without reference to the decision of the revenue authorities.

4. Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title whether the order under question should be interfered with. It may be pointed out here that in a petition under Article 226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a civil Court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether 'A' party goes to civil Court or 'B' party. Therefore, we are of the view that the question of title has to be decided by the civil Court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the Writ Petition. However, we make it clear that in the event a suit for declaration of title and for

appropriate consequential relief is filed, the civil Court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned Single Judge, contrary to what we have stated above, stand modified accordingly. With these observations, the Writ Appeal is dismissed. Consequently C.M.P.No.15872 of 1994 filed along with the appeal is also dismissed."

7. In view of the above submissions made by the learned
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Special Government Pleader and the legal principles of law laid down by this Court (cited supra), the parties concerned have to seek their remedy in the civil Court, by adducing oral and documentary evidence and this Court under Article 226 of the Constitution of India cannot go in the same. Hence, liberty is granted to the writ petitioner to raise all the grounds before the civil Court.

8. With the above observations, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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Madurai.
3. The Tahsildar,
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KB(14.08.2020) 4P 4C