



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

CORAM

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

W.P. (MD) No. 7354 of 2011

and

M.P. (MD) No. 3 of 2011

WEB COPY

- 1.S.Gurusamy
- 2.P.Kanagarasu
- 3.V.Ramanujam

...Petitioners

Vs.

- 1.The District Collector,
Collectorate,
Theni District.
- 2.The District Revenue Officer,
Theni,
Theni District.
- 3.The Revenue Divisional Officer,
Periyakulam,
Theni District.
- 4.The Thasildhar,
Aundipatti Taluk,
Theni District.
- 5.The Assistant Director (Land Survey),
District Land Survey Office,
Theni District.
- 6.Mariammal
- 7.S.Subburaj
- 8.S.Sengappan
- 9.S.Srinivasan
- 10.Chinnarasu
- 11.Sennaiyan
- 12.Vadivel Murugan
- 13.Rasu

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd Respondent herein in his proceedings in Na.Ka.No.23127/2010/A1 dated --.02.2011 and quash the same and further restrain the 1 to 5 Respondents herein from changing the "A" register and Patta in respect of the Survey Nos.22/1 and 22/4 in Shanmugasundarapuram Village, Aundipatti Taluk and Theni District.

For Petitioners	:	Mr. D.Nallathambi
For Respondents 1 to 5	:	Mr. S.Angappan Government Advocate
For 6 th Respondent	:	No appearance
For Respondents 7 to 10	:	Mr.M.Kathikeya Venkatachalapathy
For Respondents 11 to 13	:	Mr. T.Srinivasa Raghavan



O R D E R

Heard Mr. D.Nallathambi, Learned Counsel for the Petitioners, Mr. S.Angappan, Learned Government Advocate for the First to Fifth Respondents, Mr. M.Karthikeya Venkatachalapathy, Learned Counsel for the Seventh to Tenth Respondents and Mr. T.Srinivasa Raghavan, Learned Counsel for the Eleventh to Thirteenth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners, who claim to be the owner of the property in Survey Nos.22/1 and 22/4 in Shanmugasundarapuram Village, Aundipatti Taluk, Theni District are aggrieved by the order in Na.Ka. No. 23127/2010/A1 dated 02.02.2011 issued by the Second Respondent re-classifying the said land as Natham in 'A' Register, patta and chitta at the behest of the Sixth to Thirteenth Respondents who have rival claim to the title of the property.

3. It is now settled legal position as held by the Division Bench of this Court in **Kuppuswamy Nainar -vs- District Revenue Officer** [(1995) 1 MLJ 426], which has been reiterated 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 succeeding party to thereafter to apply before the concerned Revenue Authorities for mutation of records relating to the property in his favour.

4. The Hon'ble Supreme Court of India in **Roshna T -vs- Abdul Azeez K.T.** [(2019) 2 SCC 329] has reiterated 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.

5. Even according to the Petitioners, they had filed a suit in O.S. No. 52 of 2010 before the learned District Munsif, Aundipatti against the Sixth to Thirteenth Respondents for declaration of title relating to that property, recovery of possession and for restraining interference with their possession, which was pending at the time when the impugned order was passed. It is brought to notice by the Learned Counsel for the Seventh to Thirteenth Respondents that after filing of the Writ Petition, that suit has been dismissed for non-prosecution on 11.08.2018. Learned Counsel for the Petitioners is not in a position to state whether any steps have been taken by the Petitioners to restore that suit to file. Suffice here to observe that it is for the Petitioners to work out their



remedy in that regard before the appropriate forum and no view is expressed by this Court on the entitlement of the Petitioners for such relief in this proceeding.

6. Be that as it may, in terms of the dictum laid down by the Hon'ble Supreme Court in **Muddasani Venkata -vs- Muddasani Sarojana** [(2016) 12 SCC 288], mere entries of possession in revenue records do not give any right to claim title to the property. This would mean that when the Civil Court adjudicates the rival claims of the contesting parties, it 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 the ownership of the property would have to be independently decided on merits considering the pleadings and the evidence adduced by them, in accordance with law. Though obvious, it is clarified that no view has been expressed by this Court on the correctness or entitlement on the merits of the rival claim (for title and possession) relating to the property made by the contesting parties.

7. The Writ Petition is dismissed with the aforesaid observations. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Sj

To

- 1.The District Collector,
Collectorate,
Theni District.
- 2.The District Revenue Officer,
Theni,
Theni District.
- 3.The Revenue Divisional Officer,
Periyakulam,
Theni District.
- 4.The Thasildhar,
Aundipatti Taluk,
Theni District.



5.The Assistant Director (Land Survey),
District Land Survey Office,
Theni District.

+1 CC to M/s.S.MADHAVAN, Advocate (SR-11552[F] dated 13/03/2020)

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-11529[F] dated 13/03/2020)

+1 CC to M/s.SPL.GP (SR-11593[F] dated 13/03/2020)

W.P.(MD)No. 7354 of 2011
12.03.2020

KB(28/05/2020) 4P 9C