



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **31.07.2020**

CORAM

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

W.P. (MD) No.5091 of 2013

and

M.P. (MD) .Nos.1 and 2 of 2013

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Sudalaimuthu Nadar

...Petitioner

Vs

1.The Government of Tamil Nadu,
Rep by its District Collector,
Tirunelveli-2.

2.The District Revenue Officer,
Tirunelveli,
Tirunelveli District.

3.The Revenue Divisional Officer,
Charanmahadevi,
Tirunelveli District.

4.The Tahsildar,
Rathapuram Taluk,
Tirunelveli District.

5.Palpandi

...Respondents

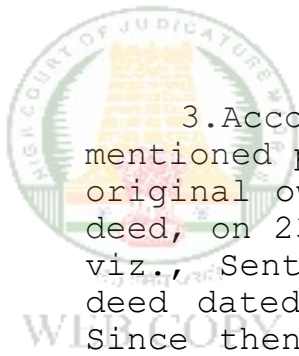
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned orders passed by the second respondent revision petition vide Ka.No.21/08 dated 11.08.2010 respectively and quash the same.

For Petitioner	: Mr.S.R.Anbarasu
For R1 to R4	: Mr.R.Sethuraman
	Special Government Pleader
For R5	: Mr.M.P.Senthil

ORDER

This Writ Petition is filed to quash the impugned order dated 11.08.2010 passe vide Ka.No.21/08 dated 11.08.2010 by the second respondent.

2.Heard Mr.S.R.Anbarasu, learned counsel appearing for the petitioner, Mr.R.Sethuraman, learned Special Government Pleader appearing for the respondent Nos. 1 to 4 and Mr.M.P.Senthil, learned counsel appearing for the fifth respondent.



3. According to the petitioner, he purchased the petition mentioned property from one Subramania Pandian Vagaiarah, who is the original owner of the said property, by virtue of a registered sale deed, on 23.10.1986. Since the another co-owner of the said property viz., Senthur Pandian, has not executed the sale deed, a consent deed dated 04.11.1986 was obtained from the said Senthur Pandian. Since then, the petitioner is in possession and enjoyment of the said property. Thereafter, he sold some lands to various persons. The remaining land measuring an extent of 1.49 ½ after excluding 10 cents of land, in which, Vada Pathirakali Amman Kovil is located, is under the possession of the petitioner. The petitioner is not claiming any right in the said land and separate patta was issued by the fourth respondent.

4. In the mean time, the fifth respondent claiming himself as the worshipper of Pathirakaliamman Temple, attempted to interfere with the petitioner's peaceful possession of the said property. Hence, he filed a suit in O.S.No.121 of 2002 before the Principal District Munsif Court, Valliyur, for permanent injunction. The said suit was decreed in favour of the petitioner. Against the said decree, an appeal was preferred by the fifth respondent in A.S.No.121 of 2007 before the Sub-Court, Valliyoor and the same is pending.

5. At this juncture, one Advocate Mr. Pandiarajan, has filed an appeal before the third respondent against the order of the fourth respondent by suppressing the decree passed in the suit. The third respondent, without giving notice and without conducting any enquiry, passed an order dated 18.12.2007 directing the fourth respondent to issue patta in favour of the Pathirakaliamman Temple. Against which, the petitioner filed a revision petition before the second respondent in Ka.211/2008. The second respondent has dismissed the petitioner's revision vide order No. Ka.21/08, dated 11.08.2010, without considering the judgment and decree passed by the civil Court. Challenging the same, the petitioner is before this Court.

6. The learned Special Government Pleader appearing for the respondents 1 to 4 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:-

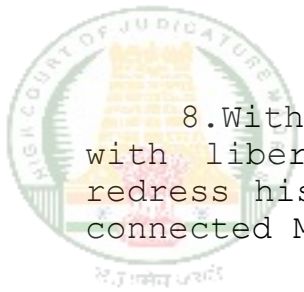
"3. No provision is brought to our notice in the Standing Orders of the Board of revenue taking away the jurisdiction of the civil Court to adjudicate upon the question of title relating to immovable property. Revenue officers in a patta proceedings may express their views on the question of title, but 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 Additional Government Pleader and the legal principles of law laid down by this Court (cited supra), the parties concerned have to approach 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. Therefore, the only remedy available to the petitioner is to approach the civil Court to redress his grievance.



8. With the above observations, this Writ Petition is dismissed with liberty to the petitioner to approach the civil Court to redress his grievance, if he is so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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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

1. The District Collector,
Tirunelveli-2.
2. The District Revenue Officer,
Tirunelveli, Tirunelveli District.
3. The Revenue Divisional Officer,
Charanmahadevi, Tirunelveli District.
4. The Tahsildar,
Rathapuram Taluk,
Tirunelveli District.

+1 CC to The Special GP SR-13524.

+1 CC to Mr.M.P.SENTHIL, Advocate SR-13559.

W.P. (MD) No.5091 of 2013

31.07.2020

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