



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD) No.6041 of 2020

and

W.M.P (MD) No.5207 of 2020

WEB COPY

Nallamayan

... Petitioner

/vs./

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

2.Subbu Gounder

3.Raniammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the first respondent to defer an enquiry / appeal filed by the respondents 2 and 3 herein in respect of Survey Number 99/5 in Thadaiyampatti village, Peraiyur Taluk, Madurai District and survey No.162/5A, Thadaiyampatti Village, Peraiyur Taluk, Madurai District, till the disposal of the suit in O.S.No.83 of 2019, before the District Munsif cum Judicial Magistrate Court, Peraiyur, Madurai District.

For Petitioner : Mr.T.Pon Ramkumar

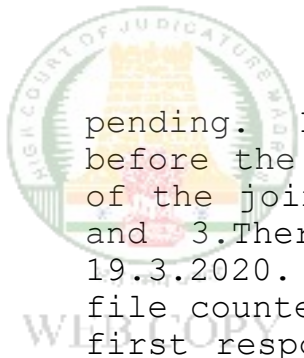
For R-1 : Mr.R.Murugan
Additional Government Pleader

For R-2 and R-3 : Mr.C.Masilamani

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The case of the petitioner is that the petitioner is a joint holder of patta claiming to be the owner of the property and he made an application before the Tahsildar, Periyaur, Madurai District, for granting patta. Accordingly, the Tahsildar has granted joint patta in the name of the petitioner and the respondents 2 and 3. In the meanwhile, the respondents 2 and 3 and others tried to interfere with the possession and enjoyment of the suit property by the Petitioner. Aggrieved by the said joint patta, the petitioner had filed a suit in O.S.No.83 of 2019, before the District Munsif-cum-Judicial Magistrate Court, Peraiyur, Madurai District, seeking for permanent injunction and the said suit is



pending. In the meanwhile, the respondents 2 and 3 filed an appeal before the Revenue Divisional Officer for cancellation of the grant of the joint patta in the name of the petitioner and respondents 2 and 3. Thereafter, the Petitioner was called for an enquiry on 19.3.2020. The Petitioner and his counsel had sought for time to file counter and to amend the prayer in the said suit. However, the first respondent, with a malafide intention, in collusion with the respondents 2 and 3 had tried to cancel the patta, which stands in the name of the Petitioner. Therefore, left with no other option, the Petitioner had filed the above Writ Petition for the relief stated supra.

3. The learned counsel appearing for the petitioner would submit that admittedly the Revenue Divisional Officer has no power to decide the title when the case is pending before a competent civil forum. He would further submit that this Court may issue a Mandamus to the first respondent to defer the enquiry in the appeal filed by the second and third respondents till the disposal of the suit.

4. The learned counsel appearing for the respondents 2 and 3 would submit that the Tahsildar has issued joint patta in favour of the petitioner and the respondents 2 and 3. The respondents 2 and 3 has filed an appeal before the Revenue Divisional Officer to cancel the said patta. He would further submit that the the appeal filed by the private respondents/respondents 2 and 3 is preferably maintainable.

5. Considering the fact that the suit is pending and also considering the fact that the Tahsildar has inadvertently granted joint patta in favour of the petitioner and respondents 2 and 3 and also no opportunity was granted to the private respondents to agitate the claim before the Tahsildar and hence, I am not inclined to grant relief as sought for by the petitioner. The Writ Petition stands dismissed. However liberty is granted to the petitioner to file an objection before the Revenue Divisional Officer after receipt of objection, the Revenue Divisional Officer shall pass appropriate orders with sufficient reasons after affording an opportunity of personal hearing to the petitioner as well as to the other interested parties, if any, on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



tsg

To

The Revenue Divisional Officer,
Usilampatti, Madurai District.

+1 CC to MR.T.PON RAMKUMAR, Advocate (SR-12929[F] dated
24/03/2020)

+1 CC to MR.C.MASILAMANI, Advocate (SR-12947[F] dated 24/03/2020)

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VB (18.06.2020) 3P 4C