



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2020

C O R A M

THE HONOURABLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 6927 of 2020

and

W.M.P. (MD) No. 6354 of 2020

WEB COPY

K.Alagarsamy

... Petitioner

Vs.

1.The Additional Collector cum
District Additional Magistrate,
Thoothukudi,
Thoothukudi District.

2.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

3.The Tahsildar,
Vilatikulam,
Thoothukudi District.

4.Thilagaveni

... Respondents

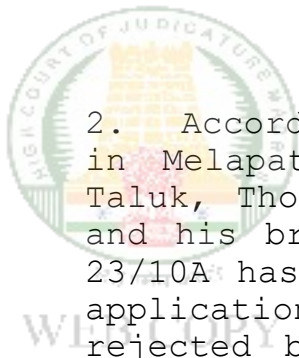
PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the First Respondent in Na.Ka.T6/24025/2016, dated 11.02.2020 and quash the same and to direct the Respondents 1 to 3 to issue patta in the name of the Petitioner for the punja land situate in Resurvey No. 23/10 (Jamin Adangal Survey No. 60/B2 Letter Patta) at Melapatti Village, Sivalarpatti Revenue Village, Vilathikulam Taluk, Thoothukudi District, within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr. K.Gokul

For Respondents 1 to 3 : Mrs. S.Srimathy,
Special Government Pleader

ORDER

Heard Mr. K.Gokul, Learned Counsel for the Petitioner and Mrs. S.Srimathy, Learned Special Government Pleader, who takes notice for the First to Third Respondents through video conference and perused the materials placed on record, apart from the pleadings of the parties.

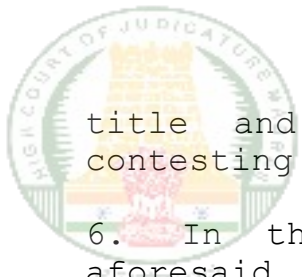


2. According to the Petitioner, the property in Survey No. 23/10 in Melapatti Village, Sivalarpatti Revenue Village, Vilathikulam Taluk, Thoothukudi District, consisting of 44 cents belongs to him and his brother Veerasamy, but after re-survey in UDR, Survey No. 23/10A has been entered in the name of the Fourth Respondent. The application made to the Second Respondent to cancel the same was rejected by order dated 12.08.2016 by the Second Respondent and confirmed in Appeal by order dated 11.02.2020 by the First Respondent. Aggrieved thereby, the Petitioner has preferred this Writ Petition.

3. It is also borne out from the proceedings of the revenue authorities that the Fourth Respondent has made a rival claim of title to that property. It is now legally settled 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. Since the impugned order is in conformity with that position of law, it does not require any interference by this Court.

4. The Hon'ble Supreme Court of India in **Roshina 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. Having due regard to this unassailable legal position, the claims made by the Petitioner in this Writ Petition would have to be adjudicated only before the jurisdictional Civil Court.

5. In view of the dictum laid down by the Hon'ble Supreme Court in **Muddasani Venkata -vs- Muddasani Sarojana** [(2016) 12 SCC 288] that entries of possession in revenue records do not give any right to claim title to the property, the Civil Court shall not be influenced or inhibited by the past revenue 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 the contesting parties 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 divergent claim (for



title and possession) relating to the property made by the contesting parties.

6. In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Sj

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 Additional Collector cum
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