

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 14.08.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P(MD)No.7750 of 2020

N.Senthil

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The District Revenue Officer,
Madurai District,
Madurai.

3.The Revenue Divisional Officer,
Melur,
Madurai District.

4.The Tahsildar,
Madurai South Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified Mandamus by calling for the entire records pertaining to the impugned order passed by the 2nd Respondent vide his proceedings in Ni.Mu.No.46443/2019/G5 dated 17-03-2020 and quash the same and consequently direct the 2nd Respondent to make entry in the 'A' Register as "Agricultural Land" in lieu of "Silaimankulam" in the respect of the petitioner's property comprised in Survey No.24/4 measuring to the extent of one acre and 21 cents at Kallambal Village, Madurai South Taluk, Madurai District within a time stipulation as fixed by this Court.

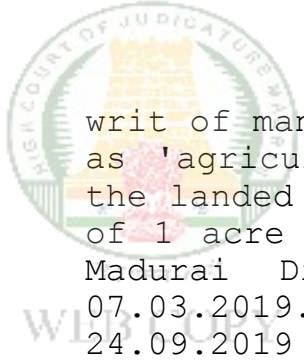
For Petitioner : Mr.S.Balaji
For Respondent : Mr.M.Muthugeethaiyan
Special Government Pleader

* * * * *

ORDER

(Order of the Court was made by **M.SATHYANARAYANAN, J.**)

The petitioner, on an earlier occasion, filed W.P.(MD).No.6013 of 2019 against the respondents 1 to 3 praying for the issuance of



writ of mandamus directing the respondents to make necessary entries as 'agricultural land', in lieu of "Silaimankulam", in respect of the landed property comprised in Sy.No.24/4 admeasuring to an extent of 1 acre and 21 cents at Kallambal Village, Madurai South Taluk, Madurai District, on the basis of the representation dated 07.03.2019. A Single Bench of this Court, vide order dated 24.09.2019 had disposed of the said writ petition by directing the second respondent namely District Revenue Officer, Madurai District to consider and dispose of the petitioner's representation dated 07.03.2019 on merits and in accordance with law within a stipulated time frame and further observed that in the course of consideration of said representation, if the entries are likely to be altered, a reasonable opportunity should be given to such third parties, who may be affected by such process.

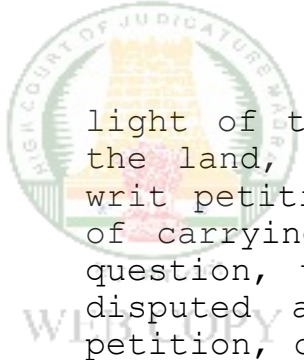
2. Accordingly, the second respondent in compliance of the said order, had considered the representation of the petitioner, dated 03.10.2019 on the basis of the connected revenue records and vide impugned proceedings dated 17.03.2020, had found that before UDR, the land measuring to an extent of 3.26 acres in Sy.No.24/4 (wrongly typed as 34/4), is shown as Silaimankulam water spread, (Government Purumbukal) and after UDR, the land measuring an extent of 0.98.0 hectares is shown as Silaimankulam water tank (Government Purumbukal) and as such, the request made by the writ petitioner in the form of representation dated 03.10.2019 is liable to be rejected and accordingly, rejected the same.

3. The learned counsel appearing for the petitioner made a forcible submission that the forefathers of the writ petitioner as well as the writ petitioner continue to remain in possession in the said land by cultivating crops and on account of the change of classification as water spread, their possession is likely to be disturbed and prays for appropriate orders.

4. Per contra, Mr.M.Muthugeethaiyan, learned Special Government Pleader, appearing for the respondents, would submit that a careful exercise has been done by the second respondent, after taking into consideration all the relevant records in compliance of the order passed in W.P.(MD).No.6013 of 2019 and since the point urged by the learned counsel appearing for the writ petitioner would revolve around the adjudicated and disputed facts, this exercise cannot be done by this Court, while exercising its jurisdiction under Article 226 of the Constitution of India and hence, prays for dismissal of the writ petition.

5. This Court has carefully considered the rival submissions made on either side and perused the materials placed on record.

6. A perusal of the impugned proceedings of the second respondent, dated 17.03.2020 would disclose among other things that an exercise has been carried out after taking into consideration all the relevant records and as rightly pointed out by the learned Special Government Pleader appearing for the respondents, in the



light of the factual dispute involved as to the classification of the land, alleged possession of the predecessors in title of the writ petitioner as well as the writ petitioner and their avocation of carrying on agricultural activities in respect of the land in question, this Court is the view that in the light of the factual disputed adjudication, the present issue in the form of writ petition, cannot be appropriate.

7. At this juncture, the learned counsel appearing for the writ petitioner would submit that the petitioner may be granted liberty to avail the common law remedy before the competent forum. If the petitioner is so advised and he is willing, it is always open to him to avail the common law remedy before the appropriate forum.

8. In the result, this writ petition stands disposed of, subject to the above observations. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Deputy Registrar (Accounts)

// 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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+1 CC to Spl GP (SR-14183[F] dated 17/08/2020)