



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2020

CORAM:

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

W.P. (MD)No.8416 of 2020

Mohamed Shaheen

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 11.05.2020 and 09.06.2020 and to appropriate orders within a time frame stipulated by this Court.

For Petitioner : Mr.S.A.Ajmalkhan

For Respondents : Mr.P.Kannithevan

Additional Government Pleader

ORDER

This Writ Petition is filed to direct the respondents to consider the petitioner's representation dated 11.05.2020 and 09.06.2020 and to pass appropriate orders within a time frame..

2.Heard Mr.S.A.Ajmalkhan, learned counsel appearing for the petitioner and Mr.P.Kannithevan, learned Additional Government Pleader appearing for the respondents.

3.According to the petitioner, originally the properties belonged to the petitioner's father and after death of his father, the said properties devolved on his legal heirs, as per the Mohammedan Succession Law. While so, one K.S.M.Mohamed Hussan filed a suit in O.S.No.6 of 1997 before the Sub-Court, Ramanathapuram against the petitioner's and others, for declaration and injunction and for recovery of possession, in respect of the properties in Survey Nos.854 and 855. The petitioner and others have also filed a suit in O.S.No.4 of 1998 before the Sub-Court, Ramanathapuram, for



partition. Both the suits are pending.

4. Further, it is stated that the petitioner's father has filed an appeal before the Revenue Divisional Officer, Ramanathapuram, to set aside the sub divisions made in the said properties and other properties and also requested to maintain status quo till the disposal of the civil Court proceedings. Since the said appeal was not considered properly, the petitioner's father has filed a writ petition in W.P(MD).No.9293 of 2008 before this Court and the said writ petition was disposed of, directing the respondents to consider his petition.

5. Pursuant to which, the Revenue Divisional Officer, Ramanathapuram passed an order in Na.Ka.A5/5865/2007 dated Nil.04.2009 stating that he has set aside the order of the District Revenue Officer and further to grant joint patta in favour of the legal heirs of Mohamed Abdul Kadar alone, who is the father of the petitioner. As per the said proceedings, joint patta has been issued. In the year 2014, some of the Revenue Officials colluded with the third person granted and patta in favour of one Abdul Samathu and Seeni Shajahan. In this regard, the petitioner made several representations, but the Revenue Officials have not take any action. Again, the petitioner made representations on 11.05.2020 and 09.06.2020 to the respondents through registered post. Since no action has been taken, the petitioner is before this Court.

6. The learned Additional Government Pleader appearing for the respondents submitted that as rightly stated in the earlier proceedings of the DRO that civil suits are pending between the parties concerned, 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 fact that, civil suits are pending before the Sub-Court, Ramanathapuram, the proceedings issued by the Tahsildar, will be subject to the out come of the decision of the civil Court.

8. With the above observation, this Writ Petition stands disposed of. No costs.

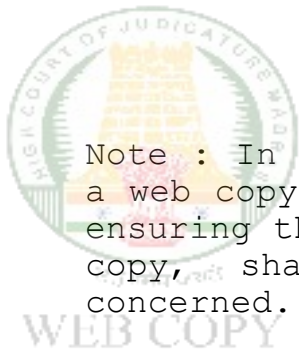
Sd/-

Assistant Registrar (AS)

// 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

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The District Revenue Officer,
Ramanathapuram,
Ramanathapuram District.
- 3.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-14351[F] dated 18/08/2020

W.P. (MD) No.8416 of 2020
14.08.2020

KK(26.08.2020) 4P 5C