



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2020

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CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.8650 of 2020

and

W.M.P (MD)Nos.7997 & 7998 of 2020

K.VR.Chinnaveerappan,
S/o.Veerappan,
Through his power agent
A.Krishnan.

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

2.The Tahsildar,
Devakottai,
Sivagangai District.

3.Saravanan
4.Jegadeesan
5.Ganesan

... Respondents

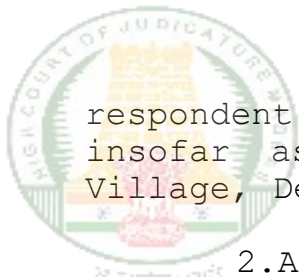
PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records from the first respondent herein relating to the impugned order vide proceedings in M.M.A.1-1225-2020 dated 05.03.2020 and quash the same insofar as Survey Nos.30, 15, 29/2, 33/1, 34 of Thalanendhal Village, Devakottai Taluk, Sivagangai District is concerned.

For Petitioner : Mr.S.Madhavan

For RR 1 & 2 : Mr.M.Pandiarajan
Additional Government Pleader

ORDER

The petitioner has filed the present Writ Petition to issue a Writ of Certiorari, to quash the impugned order passed by the first



respondent vide proceedings in M.M.A.1-1225-2020 dated 05.03.2020 insofar as Survey Nos.30, 15, 29/2, 33/1, 34 of Thalanendhal Village, Devakottai Taluk, Sivagangai District is concerned.

2. According to the petitioner, he is a power agent of one K.VR.Chinna Veerappan as per the registered power Document No.2190 of 2020 and the power of attorney was given to the property in Survey Nos.30, 15, 29/2, 33/1, 34 of Thalanendhal Village, Devakottai Taluk, Sivagangai District. While so, as per the representation made by the respondents 3 to 5, the first respondent has passed the impugned order dated 05.03.2020 for granting of patta to them.

3. The learned counsel appearing for the petitioner submitted that the petitioner is the legal heir of AL.AR.Kalaiyaraja Chettiar and without providing an opportunity to the petitioner, the first respondent has passed the impugned order and therefore, the same is liable to be quashed.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner has not placed any documents to show that the petitioner is having the right over the property and he is one of the legal heirs of AL.AR.Kalaiyaraja Chettiar and therefore, the petitioner has to seek his remedy before the competent civil Court.

5. In reply, the learned counsel for the petitioner seeks liberty to approach the concerned forum to seek his remedy for challenging the aforesaid order.

6. On perusal of the materials available on record, it is seen that the petitioner is claiming right over the property in Survey Nos.30, 15, 29/2, 33/1, 34 of Thalanendhal Village, Devakottai Taluk, Sivagangai District, but he has not produced any documents to establish that he is one of the legal heirs of AL.AR.Kalaiyaraja Chettiar.

7. Further, the petitioner has to approach the appropriate forum to seek his remedy 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."

8. In view of the above facts and the legal principles of law laid down by this Court (cited supra), the parties concerned have to approach the appropriate forum, 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 approach the appropriate forum to redress his grievance.

9. With the above observation, the Writ Petition is dismissed with liberty to the petitioner to approach the appropriate forum to



redress his grievance, if he is so advised. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

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/ /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 Revenue Divisional Officer,
Devakottai, Sivagangai District.

2.The Tahsildar,
Devakottai,
Sivagangai District.

+1 CC to M/s.GP (SR-13795[F] dated 07/08/2020)

Order made in
W.P. (MD) No.8650 of 2020
Dated:05.08.2020

ps

SDS (18.08.2020) 4P-4C