



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2020

CORAM:

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

W.P. (MD)No.9262 of 2020

and

W.M.P. (MD) .Nos.8440 and 8441 of 2020

1.Vanjiappan
2.Muthulakshmi
3.Suryakumar

... Petitioners

Vs.

1.The District Revenue Officer,
Dindigul.

2.The Sub Collector,
Palani, Dindigul District.

3.The Tahsildar,
Oddanchatram Taluk,
Dindigul District.

4.Valliammal
5.Muthusamy

... Respondents

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 pertaining to the impugned order made by the first respondent by his proceedings in Pa.Mu.9214/2020/Aa6 dated 27.07.2020 confirming the impugned order passed by the second respondent by his proceedings in Na.Ka.No.7451/2018/A1, dated 24.03.2020.

For Petitioners : Mr.M.P.Senthil
For Respondents : Mr.V.Anand
Government Advocate

ORDER

This writ petition is filed challenging the impugned order passed by the first respondent by his proceedings in Pa.Mu.9214/2020/Aa6 dated 27.07.2020.

2.Heard Mr.M.P.Senthil, learned counsel appearing for the petitioners and Mr.V.Anand, learned Government Advocate appearing for the respondents.



for the respondents 1 to 3.

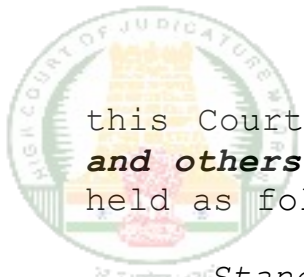
3. According to the petitioners, they have purchased a house site in Survey No.402/1A measuring an extent of 1 acre 36 ½ cents through a registered sale deed, dated 05.02.2014 and 24.02.2014 and they have obtained patta. From the date of purchasing the said lands, the petitioners are in possession and enjoyment of the same. While so, the fourth respondent had approached the third respondent seeking patta in her name by removing the petitioners' name. The third respondent in his proceedings dated 25.09.2018 has stated that the property in Survey No.402 was sub divided into Survey Nos.402/1A, 402/1B, 402/1C and 402/2. Further, it has been stated that as there is a variation in the total extent of the land, the third respondent has rejected the application for transfer of patta. Thereafter, the fourth respondent had made a representation before the Chief Minister's Cell and the same was forwarded to the second respondent. Pursuant to which, the second respondent in his proceedings Na.Ka.No.7451/2018/A1, dated 24.03.2020, had issued a separate patta in the name of the fourth respondent for survey No.402/1A by removing the petitioners' name.

4. Aggrieved against the same, the petitioners have preferred a revision petition before the first respondent. The first respondent by his proceedings in Pa.Mu.9214/2020/Aa6 dated 27.08.2020 has directed the petitioners to approach the civil Court to establish their title and for confirming the order of the second respondent. Therefore, the petitioners have filed a suit in O.S.No.176 of 2020 before the Sub-Court, Palani against the respondents 4, 5 and the daughters of the fifth respondent and the said suit is still pending.

5. Especially, the petitioners are the bona fide purchasers for a valuable sale consideration and therefore, the first respondent ought to have directed the third respondent to keep in abeyance the entire proceedings by maintaining status quo. Since no action has been taken, the petitioner is before this Court.

6. The learned counsel appearing for the petitioners submitted that the writ petitioners have filed a suit in O.S.No.176 of 2020 before the Sub-Court, Palani and the said suit is still pending. The petitioners, along with the said suit, have filed an interlocutory application in I.A.No.30 of 2020 for interim injunction. He further submitted that till date the patta stands in the name of the petitioners. Therefore, the impugned order passed by the second respondent is unsustainable.

7. The learned Government Advocate appearing for the respondents 1 to 3 would submit that 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."

8. In view of the above submissions made by the learned Additional Government Pleader and the legal principles of law laid down by this Court (cited supra), the parties concerned have to approach the Civil Court, 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 to approach the Civil Court to redress his grievance.

9. It is brought to the notice of this Court that the petitioners have filed an interlocutory application seeking interim injunction and the same is also to be decided along with the suit. It is also made clear that the Sub-Court, Palani, shall decide the said I.A as well as the main suit independently, without being influenced by any one of the observations made in this order. Further, the Sub-Court, Palanli, shall consider the petitioner's I.A as early as possible.

10. With the above observations, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

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Sub Assistant Registrar(CS)

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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 Revenue Officer, Dindigul.

2. The Sub Collector,
Palani, Dindigul District.

3. The Tahsildar,
Oddanchatram Taluk,
Dindigul District.



4. The Sub Court, Palani.

+1 CC to M/s.GP (SR-14099[F] dated 14/08/2020)

+1 CC to M/s.M.P. SENTHIL, Advocate (SR-14146[F] dated 17/08/2020)

W.P. (MD) No. 9262 of 2020
13.08.2020

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