



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.09.2020**

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.739 of 2020

N.P.Pandi

... Appellant / Petitioner

-Vs-

1.The Block Development Officer,
Panchayat Union Office,
Chellampatti,
Usilampatti Taluk,
Madurai District.

2.Padivu Thevar

... Respondents / Respondents

Prayer: Writ Appeal - filed under Clause 15 of the Letters Patent Act, to set aside the order dated 01.11.2019 passed in W.P(MD) No.19993 of 2019.

Prayer in WP(MD). 19993 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court directing the respondent to accord permission to construct the residential building in petitioner house plot comprised in Survey No.14/1B at Kodikulam Village, Usilampatti Taluk, Madurai District based on the petitioner representation dt.22.7.2019 and 30.8.2019.

For Appellant

: Mr.J.Barathan

For R-1

: Mr.K.P.Krishnadoss,
Special Government Pleader

For R-2

: Mr.V.Sukumar

JUDGMENT

[Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.,**]

The appellant is the writ petitioner and the writ petition filed by him praying for issuance of a Writ of Mandamus, directing the first respondent to accord permission to construct a residential building upon the House Plot in Survey No.14/1B at Kodikulam Village, Usilampatti Taluk, Madurai District, based on his representations dated 22.07.2019 and 30.08.2019, came to be dismissed by granting liberty to approach the appropriate forum for appropriate relief and aggrieved by the same, the present writ appeal is filed.

2. The learned counsel appearing for the appellant would submit that the appellant and his sister namely Muniammal, had executed a

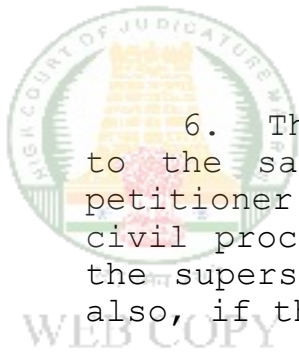


registered gift settlement deed dated 23.03.2015 bearing as Document No.990/2015 registered on the file of the Sub-Registrar, Chekkanoorani, in favour of one Geetharani, who is the wife of the appellant, in respect of a property admeasuring to an extent of 3675 sq.ft at Kodikulam Village in Survey No.14/1B and subsequently, the said Geetharani in turn, had executed a gift settlement deed dated 27.06.2019 in favour of the appellant / writ petitioner vide registered document bearing No.1383 / 2019 and subsequently, she executed a rectification deed dated 18.07.2019 incorporating the correct Door number and thereafter, patta was also transferred in his name vide patta No.1391 in respect of Survey No.14/1B of Kodikulam Village. It also appears from the said materials that the order of the Revenue Divisional Officer, Usilampatti in Ni.Mu.No.5012/2018/A2 granting patta has also been put to challenge by filing a revision before the District Revenue Officer, Madurai, on 22.03.2019 and the same is pending.

3. The primordial submission made by the learned counsel appearing for the appellant is that in the light of the fact that the property in question as of now stands in the name of the appellant / writ petitioner and that patta has been granted in his favour, his application seeking permission for demolition and reconstruction of the superstructure bearing Door No.1/144 of Udankattupatti, Kodikulam Post, Usilampatti Taluk, is to be necessarily accorded and the learned Judge without taking note of the fact that in the pending civil suits, no interim orders are in operation, has erroneously directed the appellant / writ petitioner to work out his remedy before appropriate forum and prays for interference.

4. Per contra, the learned counsel appearing for the second respondent would submit that the second respondent has filed O.S.No.454 of 2019 on the file of the Court of Subordinate Judge at Madurai (Usilampatti Camp) against the writ petitioner and his wife as well as against one Muniammal and Paapu, praying for partition and separate possession of $\frac{1}{2}$ share and to declare that the gift deed dated 23.03.2015 executed in favour of the second defendant namely Geetharani as null and void and the said suit is still pending and further points out that challenging the order of the Revenue Divisional Officer, Usilampatti in granting patta, revision petition has also been filed before the District Revenue Officer, Madurai on 22.03.2019 and the same is pending and in the light of the complicated questions of fact involved, the learned Judge has rightly relegated remedy to the appropriate forum and prays for dismissal of this writ appeal.

5. The learned Special Government Pleader appearing for the first respondent would submit that the revision petition filed before the District Revenue Officer, Madurai, by the second respondent, is still pending.



6. The learned counsel appearing for the appellant in response to the said submission, would submit that the appellant / writ petitioner also undertakes to abide by any decree passed in the civil proceedings and in the event of permission being granted and the superstructure being constructed, he will not claim any equity also, if the verdict goes against him.

7. This Court has carefully considered the rival submissions made and also perused the materials placed before it.

8. The fact remains that challenging the grant of patta issued in favour of the appellant / writ petitioner, a revision is pending before the District Revenue Officer, Madurai and that apart, a perusal and consideration of the documents would also disclose that adjudication on disputed questions of fact, is also to be done in the pending civil proceedings. No doubt, there are no interim orders are in operation in favour of the second respondent in the pending civil suit in O.S.No.454 of 2019 on the file of the Court of Subordinate Judge, Madurai (Usilampatti Camp).

9. Be that as it may, it is always open to the appellant / writ petitioner to invoke appropriate provisions and file an application in the pending civil suit if it is permissible under law and get the relief. Insofar as the revision petition pending before the District Revenue Officer, Madurai, is concerned, the said Official is directed to accord priority and dispose of the revision petition filed by the second respondent after putting on notice, the appellant / writ petitioner and give a disposal in accordance with law as expeditiously as possible and not later than ten weeks from the date of receipt of a copy of this judgment and communicate the decision taken to the second respondent as well as the appellant / writ petitioner.

10. In the result, this Writ Appeal is dismissed subject to above observations. No Costs.

11. The Registry is also directed to mark a copy of this judgment to the Revenue Divisional Officer, Usilampatti and the District Revenue Officer, Madurai.

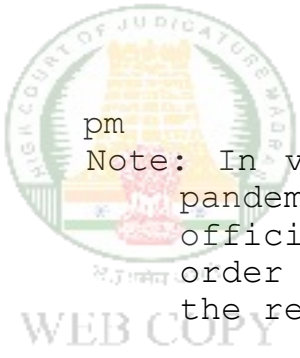
Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



pm

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 Block Development Officer,
Panchayat Union Office,
Chellampatti,
Usilampatti Taluk,
Madurai District.

2.The Revenue Divisional Officer,
Usilampatti.

3.The District Revenue Officer,
Madurai.

+1 CC to M/s.GP (SR-16656[F] dated 11/09/2020)

+1 CC to M/s.T.R. JEYAPALAM, Advocate (SR-16704[F] dated 11/09/2020)

W.A(MD) No.739 of 2020
10.09.2020

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