



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

**DATED: 31.08.2020**

**CORAM:**

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

**W.P. (MD) No.10492 of 2020**

**and**

**W.M.P (MD) No.9286 of 2020**

WEB COPY

Velusamy

... Petitioner

Vs.

1.The Commissioner of Land Administration,  
Land Administration Department,  
Chepauk, Chennai.

2.The District Revenue Officer,  
Tirunelveli.

3.The Revenue Divisional Officer,  
Tirunelveli.

4.The Tahsildar,  
Sankarankovil Taluk, Tenkasi District.

... Respondents

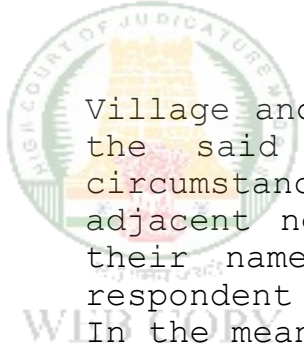
PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent dated 23.06.2016 in Letter No.K4/23213/2015 and quash the same and direct the first respondent to issue a separate patta in respect of Survey No.891 situate at Karisathan Village, Survey No.25/2 and Survey No.272/1 situate at Adailakalapuram Village, Sankarankovil Taluk, Tenkasi District in favour of Velusamy.

|                 |                                       |
|-----------------|---------------------------------------|
| For Petitioner  | : Mr.K.Anand                          |
| For Respondents | : Mr.M.Murugan<br>Government Advocate |

**ORDER**

Challenging the order passed in Letter No.K4/23213/2015 dated 23.06.2016 by the first respondent and to direct the first respondent to issue separate patta in favour of the petitioner in respect of the properties in Survey No.891 situated in Karisathan Village and Survey Nos.25/2 and 272/1 situate at Adaikalapuram Village, Sankarankovil Taluk, Tenkasi District, the present Writ Petition has been filed.

2.According to the petitioner, originally the property comprised in Survey Nos.891, 25/2 and 272/1 situated in Kalangipatti  
<https://hcservices.ecourts.gov.in/hcservices/>



Village and Karisathan Village belongs to his ancestor and finally, the said properties devolved to the petitioner. Under such circumstances, Guruvammal, Rajamani and Veeralakshmi, who are adjacent neighbours, transfer the patta of the said properties in their name. Hence, the petitioner sent a letter to the fourth respondent to cancel the patta in the name of the abovesaid persons. In the mean time, the petitioner filed a suit in O.S.No.284 of 2012 against the legal heirs of Sangli Thevar on the file of the District Munsif Court, Sankarankovil, for declaration of title and for permanent injunction and the said suit was decreed in favour of the petitioner on 15.12.2012. Thereafter, the petitioner filed a petition to issue patta in respect of the said properties before the fourth respondent on 29.01.2013 and the fourth respondent referred a letter to the third respondent. The third respondent / Revenue Divisional Officer rejected the petitioner's application on 23.04.2014 and the second respondent / District Revenue Officer has also rejected the petitioner's application on 22.07.2015 and directed the petitioner to file an appeal before the first respondent. The first respondent, by proceedings dated 23.06.2016, rejected the claim of the petitioner. Challenging the same, the petitioner is before this Court.

3.The learned Government Advocate appearing for the respondents submitted that the petitioner has to approach the civil Court in the light of the decision made by the Hon'ble Supreme Court in **Suraj Bhan and others Vs. Financial Commissioner and others** reported in **(2007) 6 SCC 186**, in which, the Hon'ble High Court has held as follows:-

9. ....It is well settled that an entry in Revenue Records does not confer title on a person whose name appears in Record of Rights. It is settled law that entries in the Revenue Records or Jamabandi have only 'fiscal purpose' i.e. payment of land-revenue, and no ownership is conferred on the basis of such entries. So far as title to the property is concerned, it can only be decided by a competent Civil Court (vide Jattu Ram v. Hakam Singh and Ors., AIR 1994 SC 1653). As already noted earlier, Civil Proceedings in regard to genuineness of Will are pending with High Court of Delhi. In the circumstances, we see no reason to interfere with the order passed by the High Court in the writ petition.

10. For the foregoing reasons, the appeal deserves to be dismissed and is accordingly dismissed. We may, however, clarify that we may not be understood to have expressed any opinion on correctness on genuineness of the Will said to have been executed by deceased Ratni Devi in favour of respondent No. 5. It was stated at the Bar that against dismissal of the suit by the trial Court on the ground of limitation, an appeal is filed



by the appellants which is pending before the High Court of Delhi. As and when the said appeal will be taken up for hearing, it will be decided on its own merits without being influenced by observations made by us in this judgment. We may also make it clear that we are not expressing any opinion on the entitlement of compensation said to have been awarded in land acquisition proceedings. All contentions of all parties are kept open and all questions will be decided in appropriate proceedings by Competent Authorities or Courts without being inhibited by the present decision. The appeal is accordingly disposed of. In the facts and circumstances of the case, however, there shall be no order as to costs.

4. In support of his contention, the learned Additional Government Pleader would rely another judgment of this Court in the case of **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."

5. At this juncture, the learned counsel appearing for the petitioner submitted that delay has been occurred in approaching the civil Court and therefore, he sought condonation of the delay.

6. In view of the above submissions made by the learned Additional Government Pleader and the legal principles of law laid down by the Hon'ble Supreme Court as well as 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. This Court is not inclined to accept the contention of the learned counsel for the petitioner with regard to the condonation of the delay and therefore, the only remedy available to the petitioner is to approach the civil Court to redress his grievance, if the petitioner satisfies the civil Court for the condonation of the delay.

7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// 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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3.The Revenue Divisional Officer,  
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4.The Tahsildar,  
Sankarankovil Taluk, Tenkasi District.

+1 CC to M/s.R. KRISHNAN, Advocate ( SR-15604[F] dated 01/09/2020 )

Order made in  
W.P. (MD) No.10492 of 2020  
Dated:31.08.2020

ps

SDS (08.09.2020) 5P-6C