



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2020

CORAM

WEB COPY

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

W.P. (MD)No.11646 of 2020
and W.M.P. (MD)No.10138 of 2020

T.S.Ramachandran Marthandam ... Petitioner
Vs.

1.The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

2.The Revenue Divisional Officer,
Cheranmahadevi,
Tirunelveli District.

3.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

4.Ramasamy ... Respondents

Prayer: This 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 relating to the impugned order dated 01.06.2020 in Reference No.RP/A2/24/2017 passed by the first respondent and quash the same and restore the order passed by the Tahsildar, Radhapuram dated 10.06.2005 in DTR No.5493/04/05.

For Petitioner : Mr.H.Thayumanaswamy
For R1 to R3 : Mr.V.Anand,
Government Advocate.

ORDER

This writ petition has been filed to quash the impugned order, dated 01.06.2020 in Reference No.RP/A2/24/2017 passed by the first respondent and restore the order passed by the Tahsildar, Radhapuram, dated 10.06.2005 in DTR No.5493/04/05.

2.According to the petitioner, the first respondent has not considered the document relied by the petitioner to establish that he is entitled for the patta in respect of the subject matter of the properties and therefore, the stay order passed by the first respondent is liable to be quashed.



3.The learned Government Advocate submitted that this writ petition is not at all maintainable and the petitioner has to approach concerned Civil Court to seek his remedy. He also relied upon G.O.(Ms)No.409, dated 02.07.2008, in which it has been clearly stated that, any dispute with regard to grant of patta and transfer of patta can be agitated only before the concerned Civil Court. Hence, he prayed for dismissal of this petition.

4.It appears that the District Revenue Officer has rejected the revision filed by the petitioner, which was filed for granting separate patta in his name. The petitioner has relied upon several documents before this Court and claim that he is entitled for granting separate patta.

5.It is brought to my knowledge that the respondents have not violated the provisions of Revenue Standing Order and any other statute. Therefore, determination of title for granting patta can be decided only by the concerned Civil Court.

6.The Division Bench of this Court in a case of **Kuppuswami Nainar vs The District Revenue Officer** reported in (1995) 1 MLJ 426 has held as follows:-

"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, shall also 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 the light of the aforesaid facts as well as the decision, the writ petitioner has to seek his remedy only before the concerned Civil Court and all these dispute regarding title of the property and granting of patta, this Court cannot go into the such questions under Article 226 of Constitution of India.

8. Hence, *prima facie* case does not made out to interfere in the order passed by the first respondent. The petitioner has to seek his remedy before the concerned Civil Court. If any suit is filed, the concerned Civil Court shall decide the same independently without being influenced by the observations made by the Revenue Authorities. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gns

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,
Tirunelveli District, Tirunelveli.

2. The Revenue Divisional Officer,
Cheranmahadevi, Tirunelveli District.

3. The Tahsildar, Radhapuram Taluk,
Tirunelveli District.

+1 CC to M/s.H.THAYUMANASWAMY, Advocate (SR-17014[F])

+1 CC to M/s.GP (SR-17260[F])

W.P. (MD) No.11646 of 2020

15.09.2020

SCR(CO)

TR(22.09.2020) 3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>