



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2020

C O R A M

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THE HONOURABLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 2052 of 2019

Dhanapaul

... Petitioner

Vs.

- 1.The District Revenue Officer,
District Revenue Office,
Karur, Karur District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Kulithalai Taluk, Karur District.
- 3.The Tahsildar,
Taluk Office,
Kulithalai Taluk,
Karur District.
- 4.Ejammal
- 5.Sivaraj
- 6.Seenivasan
- 7.Rajkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Mandamus, to direct the Second Respondent to cancel the patta issued in favour of the Fourth to Seventh Respondents as patta No.156 and patta No.70 pertaining to S.Nos.136/4 and 137/4 situated at Porunthalur Village, Ponnampatty, Kulithalai Taluk, Karur District by considering the petitioner representation dated 13.07.2018.

For Petitioner : Mr. R.Murugappan

For Respondents 1 to 3 : Mr. S.Angappan
Government Advocate

For Respondents 4 to 7 : Mr. J.M.Madasamy

ORDER

Heard Mr. R. Murugappan, Learned Counsel for the Petitioner, Mr. S. Angappan, Learned Government Advocate for the First to Third Respondents and Mr. J.M. Madasamy, Learned Counsel for the

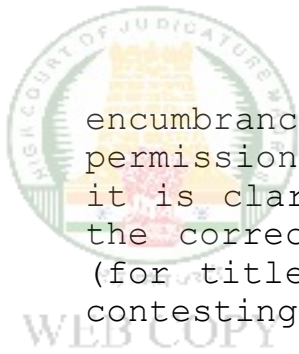


Fourth to Seventh Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner in this Writ Petition seeks to cancel the patta issued in favour of the Fourth to Seventh Respondents in patta Nos. 156 and 70 pertaining to S.Nos.136/4 and 137/4 situated at Porunthalur Village, Ponnampatty, Kulithalai Taluk, Karur District by considering his representation dated 13.07.2018. It is now well settled as held by the Division Bench of this Court in **Kuppuswamy Nainar -vs- District Revenue Officer** [(1995) 1 MLJ 426], which has been reiterated by another Division Bench in **Vishwas Footwear Company Ltd., -vs- District Collector, Kancheepuram** [2011 (5) CTC 94], that where there is a dispute relating to the title of the property, the Revenue Authorities cannot adjudicate upon the same and would have to necessarily relegate the parties to the jurisdictional Civil Court for determination in that regard and depending upon its ultimate outcome, it would be open to the succeeding party to thereafter to apply before the concerned Revenue Authorities for mutation of records relating to the property in his favour.

3. The Hon'ble Supreme Court of India in **Roshna T. -vs- Abdul Azeez K.T.** [(2019) 2 SCC 329] has reiterated the law that disputed questions of fact relating to property rights, which are private in character and do not have any element of public law involved, require full fledged trial by recording of evidence of parties and cannot be decided in a summary manner in proceedings under Article 226 of the Constitution of India.

4. It has been brought to notice that the Petitioner has already filed a suit in O.S. No. 144 of 2015 before the District Munsif Court, Kulithalai for declaration of title to his property, which is pending, and Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner to agitate his right in that suit. He has also made an endorsement to that effect, which is recorded. In view of the dictum laid down by the Hon'ble Supreme Court in **Muddasani Venkata -vs- Muddasani Sarojana** [(2016) 12 SCC 288] that entries of possession in revenue records do not give any right to claim title to the property, the Civil Court shall not be influenced or inhibited by the past revenue entries made in the revenue records in favour of either of the parties, and the question of the ownership of the property would have to be independently decided on merits considering the pleadings and the evidence adduced by the contesting parties in accordance with law. That apart, in view of the doctrine of *lis pendens* embodied in Section 52 of the Transfer of Property Act, 1882, none of the parties to that suit shall alienate or create any form of



encumbrances or third party interests, without the prior permission of the Civil Court during its pendency. Though obvious, it is clarified that no view has been expressed by this Court on the correctness or entitlement on the merits of the rival claim (for title and possession) relating to the property made by the contesting parties.

6. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

ta/sj

To

- 1.The District Revenue Officer,
District Revenue Office,
Karur, Karur District.
- 2.The Revenue Divisional Officer,
Revenue Divisional Office,
Kulithalai Taluk, Karur District.
- 3.The Tahsildar,
Taluk Office,
Kulithalai Taluk,
Karur District.

+1 CC to MR.T.M.MADASAMY, Advocate (SR-10385[F] dated 06/03/2020)

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