



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2020

C O R A M

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THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) No. 6766 of 2019

and

W.M.P. (MD) Nos. 5406 and 5407 of 2019

Periyakaruppan

... Petitioner

Vs.

1.The District Revenue Officer,
Theni District, Theni.

2.The Revenue Divisional Officer,
Uthamapalayam, Theni District.

3.The Tahsildar,
Bodinayakanur Taluk, Theni District.

4.Mohaisin

...Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records relating to the impugned order of the First Respondent in Na.Ka.No.364/2017/D4, dated 10.10.2018 and quash the same.

For Petitioner : Mr. G.Prabhu Rajadurai

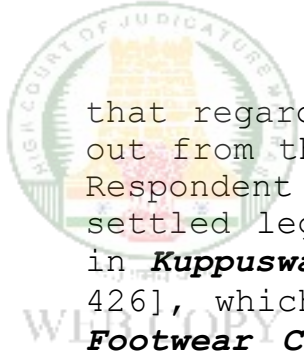
For Respondents 1 to 3 : Mr. S.Angappan
Government Advocate

For Respondent 4 : Mr. N.Murugesan

ORDER

Heard Mr. G.Prabhu Rajadurai, Learned Counsel for the Petitioner, Mr. S.Angappan, Learned Government Advocate for the First to Third Respondents and Mr. N.Murugesan, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is aggrieved by the order in Na.Ka. No.364/2017/D4 dated 10.10.2018 passed by the First Respondent refusing to enter the name of the Petitioner in the Patta for the property in Survey No.402/1A, Koozhaiyanoor Village, Podinayakanoor Taluk, Theni District and directing him to workout his rights in



that regard before the jurisdictional Civil Court. It is also borne out from the proceedings of the revenue authorities that the Fourth Respondent has made a rival claim to that property. It is now settled legal position as held by the Division Bench of this Court in **Kuppuswamy Nainar vs. The District Revenue Officer** [(1995) 1 MLJ 426], which has been restated 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. Since the impugned order is in conformity with that position of law, it does not require any interference by this Court.

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 is also brought to notice that the Petitioner has already filed a suit in O.S. No. 242 of 2019 before the Subordinate Court, Uthamapalayam, in which he has sought for declaration of title to the property against the Fourth Respondent, apart from other reliefs, which is pending. 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 made 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 entries made in the revenue records in favour of either of the parties, and the question of ownership of that property would have to be independently determined 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 in the property, 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 divergent claims (for title and possession) relating to the property made by the contesting parties.

5. Accordingly, the Writ Petition is disposed on the aforesaid
<https://hcservices.ecourts.gov.in/hcservices/>



terms. Consequently, connected Miscellaneous Petitions are closed.
No costs.

Sd/-

Assistant Registrar (Crl Side)

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/ /2020

Sub Assistant Registrar(CS)

ta/sj

To

1.The District Revenue Officer,
Theni District, Theni.

2.The Revenue Divisional Officer,
Uthamapalayam, Theni District.

3.The Tahsildar,
Bodinayakanur Taluk, Theni District.

+1 CC to M/s.N.MURUGESAN, Advocate (SR-12128[F] dated 17/03/2020)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-12306[F] dated
18/03/2020)

+1 CC to M/s.SPL.GP (SR-12458[F] dated 19/03/2020)

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