



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.01.2020
CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.17438 of 2019

W.M.P.(MD).No.13929 and 20343 of 2019

Shaji

.. Petitioner

Vs.

1.The District Collector,
Kanniyakumari District,
Nagercoil.

2.The Sub-Collector,
Padmanabhapuram,
Kanniyakumari District.

3.Sonny Mon

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his proceedings Na.Ka.No.A3/2139/2019, dated 16.07.2019 and quash the same as the 2nd respondent has no jurisdiction to decide the title of the property and consequently direct the respondents not to interfere in the peaceful possession and enjoyment of the property in 377/7 of Munjirai Village in Door No.8/72, R.C.Street, Munjirai Village, Puthukadai Post, Vilavancode Taluk, Kanniyakumari District, subject matter in patta No.537.

For Petitioner

: Mr.Ananth C.Rajesh

For Respondents

: Mr.C.Ramar for R1 & R2

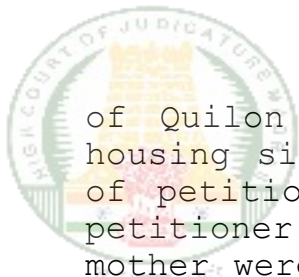
Additional Government Pleader

Mr.M.R.Sreenivasan for R3

ORDER

This writ petition is filed for issuing a writ of Certiorarified Mandamus to quash the notice issued by the second respondent, dated 16.09.2019 and direct the respondent not to interfere with the peaceful possession and enjoyment of the property by the petitioner in S.No.377/7 in Munjirai Village, Puthukadai Post, Vilavancode Taluk, Kanniyakumari District

2.The case of the petitioner is that the property in S.No.377/7 in Munjirai Village with larger extent was in the hands



of Quilon R.C.Diocese and that the said Diocese distributed the housing sites by oral sale to several persons including the family of petitioner. It is further stated that in the year 1999, the petitioner's father died and thereafter the petitioner and his mother were residing in the house that was constructed in the house site.

WEB COPY

3.It is further stated that the petitioner's mother executed a settlement deed in favour of the petitioner in respect of $\frac{1}{2}$ share and the petitioner is in lawful possession. It is further stated that the third respondent filed a Civil suit in O.S.No.81 of 2019 which was transferred and renumbered as O.S.No.75 of 2019 on the file of the District Munsif Court, Kulithurai.

4.In the meanwhile, it appears that the third respondent has also submitted a representation to the Revenue Divisional Officer for cancelling the patta that stands in the name of petitioner. When the second respondent issued a notice to the petitioner calling upon him to attend enquiry, the petitioner has filed the present writ petition, challenging the notice issued by the second respondent, dated 16.07.2019. The relief prayed for by the petitioner in the present writ petition is on the ground that the second respondent has no authority to decide the issue, as the third respondent has approached the Civil Court for appropriate relief. The second respondent is the Appellate Authority under the provisions of Tamil Nadu Patta Pass Book. When the third respondent has preferred an appeal as against the order granting patta in favour of the petitioner, such statutory function of the second respondent to hold an enquiry and decide the matter on merits and in accordance with the provisions of Tamil Nadu Patta Pass Book Act, cannot be scuttled by referring to the suit in Civil Court. The petitioner himself has prayed for consequential relief in the present writ petition to direct the respondent not to interfere with the possession and enjoyment of the property. This Court cannot exercise the jurisdiction of Civil Court to grant such reliefs. Hence, the writ petition itself is not maintainable and devoid of any merits.

5.Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, it is open to the petitioner to approach the revenue officials in case the Civil Court declare his title.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



1.The District Collector,
Kanniyakumari District,
Nagercoil.

2.The Sub-Collector,
Padmanabhapuram,
Kanniyakumari District.

+1 CC to MR.M.R.SREENIVASAN, Advocate (SR-3836[F] dated
30/01/2020)

+1 CC to SPL.GP (SR-3896[F] dated 30/01/2020)

W.P.(MD).No.17438 of 2019
29.01.2020

MK (14.02.2020) 3P 5C