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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2020

C O R A M

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 22290 and 22291 of 2015

and

W.M.P. (MD) Nos. 1, 1 and 2 of 2015

C. Sundarapandian

... Petitioner in both petitions

Vs.

1. The District Collector,
Madurai District, Madurai.

2. The Tahsildar,
Madurai South Taluk,
Madurai District.

3. The Taluk Surveyor,
Madurai South Taluk,
Madurai District.

4. P. Shanmuga Sundaram

... Respondents in both petitions

COMMON 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 passed by the Third and Second Respondents in Na.Ka.No.9177/2015 and Na.Ka.No.9177/2015/S, respectively dated 08.12.2015 and 25.11.2015, respectively and quash the same.

For Petitioner : Mr. J. Barathan

For Respondents 1 to 3 : Mr. R. Murugan
Additional Government Pleader

For Respondent 4 : Mr. C. Sundaravadivel
(in both petitions)

COMMON ORDER

The Petitioner challenges the orders in Na.Ka.No.9177/2015 and Na.Ka.No.9177/2015/S, dated 08.12.2015 and 25.11.2015, respectively passed by the Third Respondent and Second Respondent in respective petitions proposing to survey and measure the disputed properties in Survey No.190/6, Viraganoor Village, Madurai South, Madurai.

2. It is settled legal position that where there is dispute relating to the title to the property, the Revenue Authorities cannot adjudicate the same and would have to necessarily relegate the parties to the jurisdictional Civil Court for its determination and depending upon its ultimate outcome, it would be open to the successful party to thereafter apply to the concerned Revenue Authority for mutation of records relating to that property in his



favour. When the same was pointed out, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure. He has also made an endorsement to that effect, which is recorded.

3. Accordingly, the Writ Petitions are dismissed as withdrawn granting such liberty. It is needless to clarify here that no view has been expressed by this Court on the correctness or entitlement of the claim made by the Petitioner and that while adjudicating the rival claims, 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 the property shall be independently determined on merits considering the evidence adduced by the contesting parties in accordance with law. That apart, in view of the doctrine of *lis pendens* incorporated in Section 52 of the Transfer of Property Act, 1882, none of the parties to the suit shall alienate or create any form of encumbrances or third party interest or part with possession or alter the physical features of the property, without the prior permission of the Civil Court during its pendency. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS)

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To

1. The District Collector,
Madurai District, Madurai.

2. The Tahsildar,
Madurai South Taluk,
Madurai District.

3. The Taluk Surveyor,
Madurai South Taluk,
Madurai District.

+1 CC to M/s. SPL.GP (SR-10331[F] dated 06/03/2020)

+1 CC to M/s. T.R. JEYAPALAM, Advocate (SR-10481[F] dated 06/03/2020)