



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.21903 of 2019

and

W.M.P (MD) No.18660 of 2019

P.Chandrasekar

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,Tirunelveli.

2.P.Chandrasekar

3.Kathiresan

4.C.Sujin Raja

5.The Joint Commissioner (HR & CE),
52A/1, Joint Commissioner Office (HR & CE),
Trivandrum High Road,
Palayamkottai, (Opposite to Oriental Bank),
Tirunelveli - 627 002.

... Respondents

(R - 5 *suo motu* impleaded vide order dated 17.10.2019
made in W.P(MD)No.21903 of 2019)

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the first respondent to conduct an enquiry into the representation submitted by the petitioner dated 19.08.2019 and to take action against the respondents 2 to 4 for the fabrication of revenue records in respect of the property bearing T.S.No.2630/7 and 2632, Sankarankovil Road, Kandiapery, Tirunelveli Town, Tirunelveli, Nandavanam in Survey No.334/1 and nanja lands in Survey Nos.327, 337, 33/1 and to rectify the illegal corrections.

For Petitioner : Mr.G.Prabhu Rajadurai
For R - 1 : Mr.R.Sethuraman
Special Government Pleader

For R - 2 : No appearance

For R - 4 : Mr.B.Anandan

For R - 5 : Mr.VR.Shanmuganathan
Special Government Pleader

**ORDER**

The petitioner has filed the present Writ Petition to issue a Writ of Mandamus, to direct the first respondent to conduct an enquiry into the representation submitted by the petitioner dated 19.08.2019 and to take action against the respondents 2 to 4 for the fabrication of revenue records in respect of the property bearing T.S.No.2630/7 and 2632, Sankarankovil Road, Kandiapery, Tirunelveli Town, Tirunelveli, Nandavanam in Survey No.334/1 and nanja lands in Survey Nos.327, 337, 33/1 and to rectify the illegal corrections.

2. According to the petitioner, he is the Hugdhar of Shri Puthu Amman Thirukovil, which is situated in T.S.Nos.2630/7 and 2632 at Sankarankoil Road, Kandiapery, Tirunelveli Town, Tirunelveli. The said Temple is a private Temple belonging to the petitioner's family and there is no public worship, hundial or festivals attached to the Temple and the deity is only worshipped by the family members of the petitioner. Nandavanam is also attached to the said Temple in Survey No.334/1. The said Nandavanam as well as other lands in T.S.No.2630/7 and 2632 are comprised in Patta No.56 and standing in the name of Pudhu Amman Kovil. The maintenance of the Temple has been derived from the income in certain nanja lands comprised in Patta Nos.654 and 704. The petitioner and the ancestral of the family members had been enjoying the aforesaid property for more than several years.

3. Further, according to the petitioner, a registered partition deed was executed between the family members for performing the poojas in rotation among themselves. That being the case, the petitioner came to know that the fourth respondent, who is the resident of Kandiapery Village, had created a Trust deed dated 10.07.2017 with an intention to alienate the Temple properties. Based on the aforesaid Trust deed created by the fourth respondent, the respondents 2 and 3 had issued patta in the name of the fourth respondent Trust. Hence, the petitioner sent a representation dated 19.08.2019 to the first respondent to take action against the respondents 2 to 4 for the fabrication of revenue records in respect of the abovesaid properties and to rectify the illegal correction. Since no action has been taken on the side of the first respondent, the petitioner has filed the present Writ Petition.

4. The learned counsel appearing for the petitioner submitted that the petitioner and their family members enjoyed the said properties from time immemorial and patta also stood in the name of their family members and without providing an opportunity to the petitioner, by relying upon the Trust deed, the respondents 2 and 3 have changed the revenue records by deleting the name of



the petitioner's father and entered the name of the fourth respondent.

5.The learned Special Government Pleader appearing for the first respondent submitted that if the petitioner prefers an appeal before the Revenue Divisional Officer, all the contentions raised by the petitioner will be considered by the concerned authority, after providing an opportunity to the parties.

6.The learned counsel appearing for the fourth respondent submitted that if such an appeal is being preferred by the petitioner, opportunity shall be granted to the contesting respondent to produce all the relevant documents before the authority.

7.In view of the above facts and circumstances, both the learned counsel for the petitioner and the learned counsel for the fourth respondent agreed that all the contentions of the parties shall be agitated before the Appellate Authority, namely, Revenue Divisional Officer. In the mean time, the learned counsel appearing for the petitioner insists upon this Court that the fourth respondent shall not alter or alienate the said properties by taking any advantage of the said patta granted in favour of him.

8.In view of the above, this Court is inclined to pass the following order:

(i) The petitioner shall file an appeal before the Appellate Authority viz., Revenue Divisional Officer, Tirunelveli, within a period of one week from the date of receipt of a copy of this order, by raising all the contentions raised in this Writ Petition.

(ii) On filing such appeal, the Revenue Divisional Officer, Tirunelveli, shall dispose of the same, on merits and in accordance with law, after providing an opportunity of hearing to the petitioner as well as fourth respondent and other interested parties, if any.

iii) The fourth respondent, taking advantage of the patta, shall not alter or encumber the said properties till the decision is taken by the Revenue Divisional Officer in the appeal filed by the petitioner.

iv) Thereafter, it is open to the petitioner to approach before the concerned authority for preferring criminal complaint, if he is so advised.



9. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

ps

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 Collector,
Tirunelveli District,
Tirunelveli.

2. The Joint Commissioner (HR & CE),
52A/1, Joint Commissioner Office (HR & CE),
Trivandrum High Court,
Palayamkottai, (Opposite to Oriental Bank),
Tirunelveli - 627 002.

3. The Revenue Divisional Officer,
Tirunelveli.

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-14123[F] dated 14/08/2020)

+1 CC to M/s.GP (SR-14096[F] dated 14/08/2020)

Order made in
W.P. (MD) No. 21903 of 2019
Dated: 13.08.2020

ma (CO)

TR (27.08.2020) 4P 6C