



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2020

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD)No.5275 of 2016

and

W.M.P. (MD)Nos.4720 and 5426 of 2016

WEB COPY

Abdul Kalam Azad

...Petitioner

Vs.

1.The District Revenue Officer,
Office of the District Officer, Madurai.

2.The Special Tahsildar,
Urban Land Tax Scheme,
Tirumangalam, Madurai District.

3.Meharnisha Begam

4.Mohammed Abdullah

5.Abdul Razaak

6.Samaldeen

7.Pathima Garnisha

8.Guru Maideen

9.Sahul Hameed

10.Sabica Banu

11.Thajisha Begam

12.Mohammed Aseen

...Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records pertaining to the impugned order passed by the First Respondent in Ni.Mu.No.13120/2015 (G.5) dated 06.01.2016 and quash the same as illegal.

For Petitioner : Mr. T.Vadivelan

For Respondents 1 & 2 : Mr. S.Angappan
Government Advocate

For Respondents 3 -12 : Mr. G.Prabhu Rajadurai

ORDER

Heard Mr. T.Vadivelan, Learned Counsel for the Petitioner, Mr. S.Angappan, Learned Government Advocate for the First and Second Respondents, Mr. G.Prabhu Rajadurai, Learned Counsel for the Third to Twelfth Respondents and perused the materials placed on records, apart from the pleadings of the parties.

2. The Petitioner is aggrieved by the order in Ni.Mu. No. 13120/2015 (G.5) dated 06.01.2016 passed by the First Respondent deleting the name of the Petitioner in the revenue records relating to the property measuring an extent of 0.00.30.0 Square Meter in Old S.F. No. 156/2 of 'A' Ward, Plot No.19, Town Survey No. 45, Sengulam Village, Tirumangalam Town, Madurai District. It is also borne out from the impugned proceedings of the revenue authorities that the

Third to Twelfth Respondents have made rival claim of title to that property.

3. 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 successful party to thereafter to apply before the concerned Revenue Authorities for mutation of records relating to the property in his favour.

4. 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.

5. Having due regard to this unassailable legal position, the claims made by the Petitioner in this Writ Petition would have to be adjudicated only before the jurisdictional Civil Court. 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. 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.

6. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CSII)

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1.The District Revenue Officer,
Office of the District Officer, Madurai.

2.The Special Tahsildar,
Urban Land Tax Scheme,
Tirumangalam, Madurai District.

+1 CC to M/s.SPL.GP (SR-11071[F] dated 11/03/2020)

+1 CC to M/s.T.VADIVELAN, Advocate (SR-10957[F] dated 11/03/2020)

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-11089[F] dated
11/03/2020)

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