



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. 25489 of 2019****and****W.M.P. (MD) Nos. 22048 and 22050 of 2019**

Ramesh R.Nangpal

... Petitioner

Vs.

1. The Tahsildar,
Taluk Office,
Court Road, Thanjavur.

2. C. Rajeswari Ammal

... Respondents

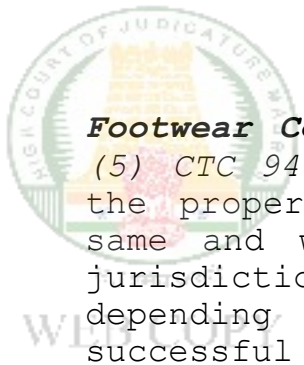
PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari and Mandamus, to call for the records pertaining to the impugned order of the First Respondent in Tha.Pa. No. 4839/2017(D1) dated 29.12.2017, quash the same and consequently, directing the First respondent to restore his order dated 25.09.2017 in Tho.Mu.Pa.Ma. No.2045/2017 in respect of the property in T.S. No. 72 (Old S.No.310/4) - 33 1/3 cents of Ward No.8 Block 4, Neelagiri Therkku Thottam, Thanjavur Town.

For Petitioner : Mr. P. Vadivel

For 1st Respondent : Mr. S. Angappan
Government AdvocateFor 2nd Respondent : Mr. V. K. Vijayaragavan**ORDER**

Heard Mr. P. Vadivel, Learned Counsel for the Petitioner, Mr. S. Angappan, Learned Government Advocate for the First Respondent and Mr. V. K. Vijayaragavan, Learned Counsel for the Second Respondent and perused the materials placed on records, apart from the pleadings of the parties.

2. The Petitioner is aggrieved by the order Tha.Pa. No. 4839/2017 (D1) dated 29.12.2017 passed by the First Respondent in removing his name from the revenue records in respect of the property in T.S. No. 72 (Old S.No.310/4) - 33 1/3 cents of Ward No.8 Block 4, Neelagiri Therkku Thottam, Thanjavur Town. It is borne out from the proceedings of the revenue authorities that the Second Respondent has made a rival claim of title to that property. It is now settled legal position 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.

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 brought to notice that the Petitioner has already filed a suit in O.S. No. 174 of 2016 before the District Munsif Court, Thanjavur, against the Second Respondent in that regard, 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 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. 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 terms. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1. The Tahsildar,
Taluk Office,
Court Road,
Thanjavur.

+1 CC to M/s.P.VADIVEL, Advocate (SR-10869[F] dated 10/03/2020)

+1 CC to M/s.V.K.VIJAYARAGAVAN, Advocate (SR-11141[F] dated
11/03/2020)

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10.03.2020

AP(03/06/2020) 3P 4C