IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.32219 of 2016
and
W.M.P.No.27936 of 2016

1.Ramasamy Gounder
2.Krishnamurthy
3.Santhamani .. Petitioners

..Vs..

1. The Revenue Divisional Officer,
Tiruppur District, Tiruppur.

2. Kaliappan
3. Saraswathy
4. Kuppusamy .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Prohibition, prohibiting the 1st Respondent herein from conducting the enquiry in Na.Ka.No.3920/2015/A4 dated 24.02.2016 in view of the judgment and decree passed in O.S.No.28 of 1996 on the file of the District Munsiff Court, Avinashi, and pending Regular Appeal in A.S.No.45 of 2015 on the file of Sub Court, Avinashi.

For Petitioners : Mr.K.Govi Ganesan

For Respondents : Mr. C.Jayaprakash (for R1)
Government Advocate

Mr.E.K.Kumaresan (for R2)

O R D E R

The writ of prohibition, prohibiting the first respondent from conducting the enquiry in Na.Ka.No.3920/2015/A4 dated 24.02.2016 in view of the judgment of the Civil Court in O.S.No.28 of 1996, is the relief sought for in the present writ petition.

2.When the matter was taken up for hearing on 15.11.2021, this Court passed an order directing the first respondent / Revenue Divisional Officer to verify the Government Revenue Records and submit a report on 22.11.2021.

3.The learned Government Advocate was also directed to inform the order to the first respondent/Revenue Divisional Officer over phone. Accordingly, the Revenue Divisional Officer, Tiruppur filed a report on 23.11.2021.

4.When the matter was taken up for hearing on 22.11.2021, the learned counsel for the petitioners made an endorsement to withdraw the writ petition on the case bundle. In view of the order of this Court on 15.11.2021, again the matter is taken up for hearing on 24.11.2021.

5.The learned counsel for the petitioners states that on instructions he has made an endorsement to withdraw the writ petition. However, it is brought to the notice of this Court through the report submitted by the Revenue Divisional Officer, Tiruppur that the petitioners are the owners of the property and the first petitioner died during the pendency of the writ petition.

6.The report of the Revenue Divisional Officer states that as per the revenue records, the subject property is classified as 'Vandi Pathai'. However, the suit instituted ended in favour of the petitioners and the defendants filed Appeal Suit in A.S.No.45 of 2015, which is pending.

7.No doubt, regarding the title or otherwise, the Civil Court is competent to decide the issues. As far as the revenue records are concerned, undoubtedly the revenue authorities are competent to decide the disputes. However, in the present case, the issue raised in the subject property is being used as a Street by a public at large.

8.The learned counsel for the petitioners states that the petitioners are the absolute owners and there was an error in the revenue records. Per contra, the Revenue Divisional Officer said that it is classified as 'Vandi Pathai' meant for the usage of public at large.

9.This Court need not go into the civil rights of the properties in respect of the ownership or title. As far as the Vandi Pathai is concerned, once it is a public road and the general public are using the Vandi Pathai for reaching a main road or otherwise, then such Vandi Pathai must be made available for the usage of the public, even if such property belongs to an individual person. The legal proposition in this regard is laid down by the Hon'ble Division Bench of this Court in the case of

J.Jagadesh vs. Tahsildar, Modakurichi Taluk, Erode District and another in W.P.No.27153 of 2016, dated 25.01.2018. Therefore, whether the Civil Court or the Revenue Divisional Officer or any other revenue authorities are bound by the judgment of this Court and whenever an enquiry is conducted and a particular property is identified as Vandi Pathai / Street meant for the public usage and such passages, road or street is to be maintained as a Street for the public usage, even if such property belongs to a private person. The Revenue authorities are competent to decide these issues, and they are not impleaded as parties in the civil suit.

10.Though the petitioner has chosen to withdraw the writ petition, this observation and the recording of the judgment of the Hon'ble Division Bench is made in the interest of public and for consideration of the principles laid down by the Hon'ble Division Bench of this Court while adjudicating the issues by the revenue authorities as well as by the respective Civil Courts dealing with such matters. Accordingly, the petitioners are permitted to withdraw the writ petition.

11.The writ petition stands dismissed as withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vs

To

The Revenue Divisional Officer,
Tiruppur District,
Tiruppur.

+1cc to M/s.K.Govi Ganesan, Advocate, S.R.No.60963

+1cc to M/s.E.K.Kumaresan, Advocate, S.R.No.60728

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KSM(CO)
SU(02/12/2021)