



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2021

CORAM

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

W.P. (MD)No.1192 of 2021

and

W.M.P. (MD)No.1027 of 2021

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Vijaya

: Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai District.

2.The Tahsildar,
Kalayarkovil Taluk,
Sivagangai District.

3.The Head Surveyor,
Kalayarkovil Taluk, Sivagangai District.

4.Vasanth

5.Kannan

6.Raja

7.Amaravathi

: Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the 1st respondent to dispose the appeal in Na.Ka.No.7550/2020 pending before him, relating with the cancellation of the Patta No.456 in the name of the respondents 4 to 7, for the land in S.No. 47/1 Mangattuenthal Village in Kalayarkovil Taluk, Sivagangai District, and to restore the same in the petitioners name, within a period to be fixed by Hon'ble this Court.

For Petitioner

For R1 to R3

:Mr.Suriyanarayanan.R

:Mr.R.Murugan

Additional Government Pleader

ORDER

The case of the petitioner is that her father was the owner of the land in S.No.47/1. The petitioner's father purchased the property on 11.12.1957, 12.10.1963 and 13.02.1964. Ever since the purchase, he was in continuous possession and enjoyment of the property till his life time. After his demise, the petitioner inherited the same and obtained patta. The father of the respondents 4 to 7 had purchased the adjacent land on 27.03.1978 and by misusing the some discrepancies in the boundary, the private respondents have started interfering with the petitioner's peaceful



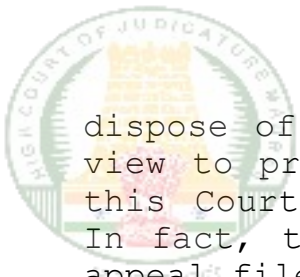
possession and enjoyment of the property. According to the petitioner, she has been raising sugarcane crops in the property.

2. According to the petitioner, the patta for S.No.47/1 was transferred in the name of respondents 4 to 7 for which no notice was issued to the petitioner and after knowing about the change in the revenue entries, the petitioner had filed an appeal before the first respondent and the same is pending. In the meanwhile, the 5th respondent herein has approached this Court in W.P.(MD)No.13318 of 2020 and obtained a direction from this Court on 20.11.2020, as under:

"4. This Court without going into the merits of the case, directs the 2nd Respondent to depute a Surveyor to survey the property of the petitioner, after affording an opportunity to the petitioner and also the 6th respondent. The said survey shall be photographed and video graphed in the presence of the petitioner and the costs of Photograph and Video graph to be borne by the petitioner. Such an exercise shall be completed, within a period of three (3) months from the date of receipt of a copy of this order. After conducting survey, in case the issuance of patta, the guidelines issued by this Court in W.P.(MD)No.13465 of 2020, dated 13.10.2020 and W.P.(MD)Nos.7746 of 2020 etc., batch, dated 23.09.2020 have to be scrupulously followed. In case any Civil Suit is already pending, there is no need for measuring the land in question, as it is for the Civil Court to decide the matter. After the orders of this Court, if any suit is filed, the officials' hands are not tied to carry out the directions mentioned in the aforesaid two orders, as there is a possibility of one or other party to move the Court later and to stall the proceedings before the revenue authorities. There will be an exception, if an interim order operates against the authorities."

3. According to the petitioner, though she was made a party in the Writ Petition, due to connectivity problem, her Counsel could not be heard on that day and this Court has disposed of the Writ Petition itself with the direction as above. Taking note of the direction of this Court, the third respondent was trying to survey the land without reference to the appeal before the first respondent at the instance of the petitioner herein. Therefore, the petitioner is before this Court with this Writ Petition seeking direction to the first respondent to dispose of the appeal pending before the first respondent relating to cancellation of patta granted in favour of the respondents 4 to 7.

4. After going through the pleadings and materials produced by the petitioner, this Court finds that the petitioner has cleverly ~~some court with this~~ Writ Petition in the guise of seeking direction to



dispose of her appeal pending before the first respondent with the view to prevent the authorities in complying with the direction of this Court, dated 20.11.2020 in the above referred Writ Petition. In fact, the petitioner has not chosen to mention the date of the appeal filed by her. This Court, despite sufficient efforts, could not find out the date of the appeal pending before the first respondent/Revenue Divisional Officer. In fact, in the index to the typed set of papers, the column relating to date of appeal has been left blank. In the absence of any indication as to the date of appeal, pending before the first respondent, this Court is unable to appreciate when the appeal was filed and whether in the guise of seeking disposal of the appeal, which is stated to be pending before the first respondent, the petitioner in attempting to thwart the official respondents from carrying out the direction of this Court in the above Writ Petition or not.

5.In the opinion of this Court, the earlier direction of this Court no way takes away the right of the petitioner, as the learned Judge of this Court has clearly spelt out that the Court has not decided the rights of the parties and no adverse order has been passed against the petitioner herein. That being the case, this Court is not inclined to appreciate as to why the petitioner is shying away from the authorities for complying with the direction of this Court *dehors* the pendency of the appeal before the first respondent.

6.In any case, in the absence of clear indication of the date of appeal to the 1st respondent and also the representation stated to have been submitted only recently on 12.01.2021, this Court is of the view that no direction could possibly be given at the instance of the petitioner on the basis of her self serving averments. It is also open to the petitioner to move the appellate authority and request him to expedite passing of final orders in the matter. But, it is certainly not open to the petitioner to approach this Court for disposal of the appeal, when the petitioner has not even chosen to indicate the date of the appeal nor the status of the appeal pending before the first respondent.

7.Therefore, this Writ Petition stands dismissed as devoid of merit or substance. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1.The Revenue Divisional Officer,
Sivagangai District.

2.The Tahsildar,
Kalayarkovil Taluk, Sivagangai District.

3.The Head Surveyor,
Kalayarkovil Taluk, Sivagangai District.

+1 CC to SPL GP (SR-2394[F] dated 29/01/2021)

W.P.(MD)No.1192 of 2021
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VB (15.02.2021) 4P 5C