



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

WEB COPY

W.A. (MD)No.1180 of 2021
and C.M.P. (MD) No.5033 of 2021

M.Murugeswari

... Appellant/Petitioner

Vs.

1.The District Collector (General),
Collectorate Office,
Virudhunagar District.

2.The District Revenue Officer,
Collectorate Office,
Virudhunagar District.

3.The Revenue Divisional Officer,
Office of Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

4.The Tahsildhar,
Sivakasi Taluk Office,
Sivakasi,
Virudhungar District.

5.The Village Administrative Officer,
Enjar Village,
Sivakasi Taluk,
Virudhunagar District.

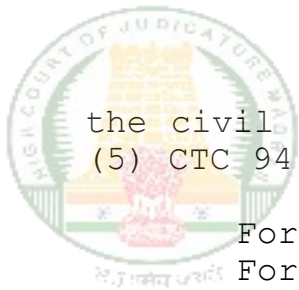
6.A.Saravanaraja

... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.19255 of 2020, dated 03.03.2021.

Prayer in WP(MD). 19255/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ , order or Direction in the nature of Writ of Certiorari to call for the records and quash the proceedings of the 2nd respondent dated 18-11-2020 in Na.Ka.No.A2/5496/2019 since it is without jurisdiction to decide on title and simply direct the rival claimants to approach



the civil forum as per order of the Division Bench reported in 2011 (5) CTC 94 and pass such further orders and thus render justice.

For Appellant : Mr.M.S.Suresh Kumar
For Respondent Nos.1 to 5 : Mr.R.Baskaran
Standing Counsel
for Government
For Respondent No.6 : Mr.B.Saravanan
for Mr.A.Rahul

WEB COPY

J U D G M E N T

(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

Heard Mr.M.S.Suresh Kumar, learned counsel for the appellant, Mr.R.Baskaran, learned Standing Counsel for Government, appearing for respondent Nos.1 to 5 and Mr.B.Saravanan, learned counsel for the sixth respondent.

2.This Writ Appeal by the petitioner is directed against the order dated 03.03.2021 in W.P.(MD) No.19255 of 2020. The said Writ Petition was filed by the appellant to quash the order passed by the second respondent dated 18.11.2020, as it has been without jurisdiction to decide on title against immovable property and it is against the decision of the Division Bench of this Court reported in **2011 (5) CTC 94 (Vishwas Footwear Company Ltd. v. The District Collector, Kancheepuram)**. The learned Single Judge has disposed of the Writ Petition with the observation that the Civil Court, which will hear the matter in issue, shall not be influenced by the any of the observations made in the impugned proceedings of the District Revenue Officer, in Na.Ka.Aa2/5496/2019, dated 19.11.2020, which was impugned in the Writ Petition.

3.It is the submission of the learned counsel for the appellant that the learned Writ Court ought to have quashed the order passed by the second respondent and ought not to have dismissed the Writ Petition filed by the appellant. In support of his submission, the learned counsel for the appellant placed reliance on the decision of the Hon'ble Supreme Court in the case of **M/s. Edelwelss Asset Construction Company Limited Vs. R.Perumalswamy and others** reported in **2021-1-L.W. 1** for the proposition that the revenue authorities having exceeded their jurisdiction and engaged in the exercise of investigating the title to a immovable property, such an order has to be set aside.

4.We have perused the decision of the Hon'ble Supreme Court in **Edelwelss Asset Construction Company Limited** (supra) and we find that there the facts are couched differently from the facts on hand. In any event, the order passed by the learned Writ Court sufficiently safeguarded the interest of the appellant, inasmuch as



the Civil Court was directed to decide the issue uninfluenced by the order passed by the second respondent dated 18.11.2020. However, we are in agreement with the submission of the learned counsel for the appellant that the Writ Court ought not to have dismissed the Writ Petition but should have disposed of the Writ Petition.

WEB COPY

5. In the light of the above, the order and direction issued by the learned Writ Court is modified with a specific observation that the Civil Court, before which the parties raise the dispute with regard to the subject property shall decide the same based on the materials placed before it and neither the plaintiff nor the defendant can place any reliance on the order passed by the second respondent dated 18.11.2020.

6. With the above clarifications, we modify the order passed in the Writ Petition, by disposing of the Writ Petition. The Writ Appeal stands allowed to the extent indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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 (General),
Collectorate Office,
Virudhunagar District.
2. The District Revenue Officer,
Collectorate Office,
Virudhunagar District.
3. The Revenue Divisional Officer,
Office of Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.



4.The Tahsildhar,
Sivakasi Taluk Office,
Sivakasi,
Virudhunagar District.

5.The Village Administrative Officer,
Enjar Village,
Sivakasi Taluk,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-20136[F] dated 24/06/2021)

+1 CC to M/s.M.S.SURESH KUMAR, Advocate (SR-20014[F] dated 23/06/2021)

W.A. (MD)No.1180 of 2021
23.06.2021

KB(02.07.2021) 4P 8C