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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.01.2021**

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

W.P.(MD) No.9162 of 2020

and

W.M.P.(MD) Nos.8374, 8377 & 11563 of 2020

C.Poovasalingam .. Petitioner

vs

1.The District Revenue Officer,
Collectorate Complex,
Ramanathapuram,
Ramanathapuram District.

2.The Sub Collector / Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Kadaladi Taluk,
Kadaladi,
Ramanathapuram District.

4.Sudalaiyandi .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of Pa.Mu.(P5)/ 29594/2019, dated 31/07/2020 passed by the 1st respondent and quash the same and consequently directing the respondents 1 to 3 to issue patta in petitioner name for the property of Survey No.87, 87/1, situated at Kannirajapuram Village, Kadaladi Taluk, Ramanathapuram District.

For Petitioner : Mr.V.Chandra Pandi for
Mr.R.Murugappan

For R1 to R3 : Mr.C.Ramesh
Special Government Pleader

For R4 : Mr.Ramakrishnan Viraraghavan
Senior Counsel for Mr.K.Saravanan

ORDER

According to the petitioner, the land bearing S.Nos.87 and 87/1 belongs to his family. In respect of the said land, the 4th respondent has obtained patta during UDR scheme in his name as well

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as in his brother's name. According to the petitioner, the 4th respondent as well as his brother have no rights for obtaining patta for the said land as the land belongs to the petitioner and his family.

2.Being aggrieved by the patta obtained by the 4th respondent and his brother, the petitioner has preferred an appeal before the 1st respondent for cancellation of patta issued in the name of the 4th respondent, dated 25.07.2019. The appeal being not disposed of, the petitioner has filed a writ petition in W.P.(MD) No.18729 of 2019 before this Court and this Court has disposed of the said writ petition on 29.08.2019, directing the 1st respondent to pass orders on the appeal.

3.Thereafter, the appeal was disposed of on 31.07.2020, rejecting the claim of the petitioner herein. Challenging the order of the 1st respondent, dated 31.07.2020, the present writ petition has been filed.

4.After notice, a counter affidavit has been filed on behalf of the 1st respondent.

5.In the counter affidavit, it is stated that on behalf of the 4th respondent, several documents have been filed in support of his claim for grant of patta in his favour. The 1st respondent after finding the possession and enjoyment, which also is with the 4th respondent and his brother, has rejected the claim of the petitioner herein.

6.When the matter is taken up for hearing today, the learned counsel appearing for the petitioner would fairly submit that the petitioner has to approach the competent civil Court for claiming title to the property and for patta. Therefore, he requested this Court to give liberty to the petitioner to approach the civil Court concerned to workout his remedies effectively.

7.Mr.Ramakrishnan Viraraghavan, learned Senior Counsel for Mr.K.Saravanan, learned counsel appearing for the 4th respondent would submit that this Court while entertaining the writ petition, at the instance of the 4th respondent has passed an order on 09.10.2020, by directing the jurisdictional police to give protection to the 4th respondent. This order was passed by the learned single Judge of this Court on consideration of the fact that there was a threat to the 4th respondent for his life at the instance of the rival claimants. Therefore, the learned Senior Counsel requested this Court that the interim police protection granted by this Court may be continued till the civil dispute is resolved by the competent Court in one way or other.

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8.In view of the submission of the learned counsel appearing for the petitioner as well as the learned Senior Counsel appearing for the 4th respondent and also the counter affidavit of the 1st respondent, this Court is of the firm view that appropriate remedy is before the civil Court and the learned counsel appearing for the petitioner has fairly considered this position. Moreover, as this Court, in consideration of the plea of the 4th respondent, had already granted an interim police protection, such interim police protection is required to be continued and no variation is required till the disposal of the civil suit to be filed on the subject matter.

9.In view of the above, this Writ Petition stands disposed of by giving liberty to the petitioner to approach the competent civil Court for the relief that is sought in this writ petition. The interim police protection as granted by the earlier order of this Court for the 4th respondent shall continue till the disposal of the suit to be filed by the petitioner herein. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Revenue Officer,
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Ramanathapuram District.

2.The Sub Collector / Revenue Divisional Officer,
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3.The Tahsildar,
Kadaladi Taluk,
Kadaladi,
Ramanathapuram District.

+1 CC to Mr.K.SARAVANAN, Advocate (SR-1893[F] dated 22/01/2021)

W.P.(MD)No.9162 of 2020
20.01.2021

VB (11.02.2021) 4P 5C

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