



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.(MD) No.1442 of 2021

and

C.M.P.(MD).No.5933 of 2021

Mr.N.Kumar Naicker

... Appellant/Petitioner

Vs

- 1.The Collector,
Office of the District Collector,
Dindigul District.
- 2.The District Revenue Officer,
Office of the District Revenue Officer,
Dindigul,
Dindigul District.
- 3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani,
Dindigul District.
- 4.The Tahsildar,
Office of the Tahsildar,
Vedachandur Taluk,
Dindigul District.
- 5.P.Ponnusamy
- 6.Mrs.Amudha
- 7.Mr.Gopinath
- 8.Smt.Jeevitha

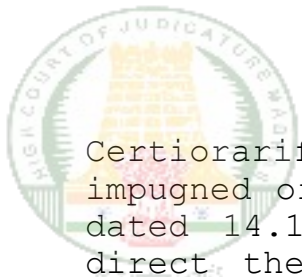
... Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent, to set aside the order dated 26.03.2021 passed in W.P.(MD).No.6747 of 2021 calling for the records relating to the impugned order made by the 4th respondent in Na.Ka.No.5582/2019/Aa2 dated 14.10.2020 and quash the same as illegal and consequently direct the respondents 2 to 4 to remove the 5th respondent and Selvaraj name from the Patta No.489 issued for Survey No.1107/3, Kalvarpatti Village, Vedachandur Taluk, Dindigul District.

Prayer in WP(MD). 6747/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of

<https://hcservices.ecourts.gov.in/hcservices/>



Certiorarified Mandamus calling for the records relating to the impugned order made by the 4th respondent in Na.Ka.No.5582/2019/Aa2 dated 14.10.2020 and quash the same as illegal and consequently direct the respondents 2 to 4 to remove the 5th respondent and Selvaraj name from the Patta No.489 issued for Survey No.1107/3, Kalvarpatti Village, Vedachandur Taluk, Dindigul District and to pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mrs.Kanimozhi Mathi

For R1 to R4 : Mr.A.K.Manikkam
Standing Counsel

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mrs.Kanimozhi Mathi, learned counsel appearing for the appellant and Mr.A.K.Manikkam, learned Standing Counsel appearing for the respondents 1 to 4. The respondents 5 to 8 are private parties. Notice to them is dispensed with, because the writ petition was dismissed at the admission stage without notice to the respondents 5 to 8. The order passed in the writ petition requires to be set aside for the following reasons:

The appellant sought for setting aside the order dated 14.10.2020, passed by the fourth respondent-Tahsildar, Vedachandur Taluk, Dindigul District and for a consequential direction to remove the names of the fifth respondent in patta No.489 issued in respect of survey No.1107/3, Kalvarpatti Village, Vedachandur Taluk, Dindigul District.

2. The learned Single Bench dismissed the writ petition at the admission stage on the ground that a civil suit has been filed in O.S.No.89 of 2020 by the respondents 5 to 8, which is pending before the Subordinate Court, Vedachandur and therefore, the matter has to be agitated before the civil Court. On facts we find that the suit has been filed by the respondents 5 to 8 after the appellant gave a representation for correction of the mistake, which has occurred while updation of the revenue records and issuance of computer patta. In fact, hearing was fixed by issuing notice to both sides on 25.11.2019. Subsequently, the suit had been filed and the suit is only for a decree of permanent injunction.

3. Since the respondents 5 to 8 informed the fourth respondent about the pendency of the suit, the fourth respondent has passed the order dated 14.10.2020, directing the appellant to agitate his right before the civil Court. Thus, the question before the Writ Court was



whether the suit which has been filed subsequent to the application given by the appellant for rectification of error in patta can be a bar for conducting the enquiry.

4. Secondly, the suit is based upon the patta issued by the fourth respondent, the correctness of which is questioned by the appellant by filing the appropriate application before the revenue Authorities and therefore, whether the suit can be a bar for the Authorities to conduct an enquiry. These issues can be agitated only after counter-affidavit is filed.

5. Since the writ petition was dismissed at the admission stage, we are of the view that the order has to be set aside and the writ petition has to be restored to the learned Writ Court, so that the official respondents can file their counter-affidavits and private respondents shall also be heard.

6. For the above reasons, this **Writ Appeal is allowed**. The order passed in the writ petition is set aside and the writ petition is restored to the file of the learned Writ Court with the direction to the Registry to list the writ petition in the admission list before the appropriate Hon'ble Single Bench dealing with the said roaster. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

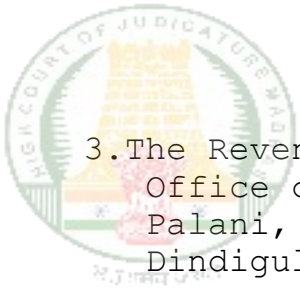
Sub Assistant Registrar(CS)

pkn

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 Collector,
Office of the District Collector,
Dindigul District.
- 2.The District Revenue Officer,
Office of the District Revenue Officer,
Dindigul, Dindigul District.



3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Palani,
Dindigul District.

4.The Tahsildar,
Office of the Tahsildar,
Vedachandur Taluk,
Dindigul District.

5.The Section Officer (Writ section),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.KANIMOZHI, Advocate (SR-23905[F] dated 26/07/2021)

+1 CC to M/s.SPL GP (SR-24218[F] dated 28/07/2021)

W.A. (MD) No.1442 of 2021

and

C.M.P. (MD) .No.5933 of 2021

26.07.2021

RD(3.08.2021) 4P 8C