BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.08.2021
CORAM
THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY
W.P.(MD) No.14480 of 2021
and
W.M.P.No.11419 and 11420 of 2021

V.Ramaraj ... Petitioner

Vs.

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Usilampatti, Madurai District.

2.P.Muthaiah ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice bearing Na.Ka.No.9214/2018 A2 dated 22.07.2021 issued by the first respondent and to quash the same.

For Petitioner : Mr.M.S.Ganagurunathan
For Respondents : Mr.R.Baskaran
Counsel for Government

O R D E R

The petitioner challenges a notice from the Revenue Divisional Officer, Usilampatti, whereby the petitioner was called upon to appear before the said officer on 27.07.2021 for an inquiry in relation to a footpath.

2. The petitioner claims title to the properties bearing Survey No.128/424A and Survey No.128/428B under a sale deed dated 04.07.1951. Subsequent thereto, the petitioner obtained patta in respect thereof and has filed the relevant pattas. It is also stated that a civil suit in O.S.No.16/2021 has been filed before the learned District Munsif, Peraiyur and that the said suit which is for a declaration in respect of title to the footpath is pending consideration.

3. In these circumstances, the petitioner states that the impugned notice from the Revenue Divisional Officer is liable to be interfered with because the subject thereof is with regard to

title to the footpath. By relying upon the judgment of a Division Bench of this Court in ***Vishwas Footwear Company Limited Vs the District Collector, Kancheepuram, 2011 (5) CTC 94 (DB)***, the petitioner contends that the Division Bench categorically held that the Revenue Divisional Officer does not have the authority to decide title and that parties should be relegated to a civil suit to decide such disputed questions of title.

4. Mr.R.Baskaran, learned Counsel for the State, accepts notice on behalf of the first respondent.

5. The main plank of the petitioner's case is that the Revenue Divisional Officer does not have the authority to decide disputed questions of title, especially when a civil suit in respect thereof is pending. The petitioner's contention that disputed questions of title cannot be decided by a Revenue Divisional Officer under Section 12 of the Tamil Nadu Patta Pass Book Act, 1983, is a tenable contention. Such contention is founded on the judgment of the Division Bench of this Court in ***Vishwas Footwear Company Limited Vs the District Collector, Kancheepuram***. At the same time, the Revenue Divisional Officer has been vested with the jurisdiction to decide an application for cancellation of patta under Section 12 of the Tamil Nadu Patta Pass Book Act, 1983. Indeed, even the judgment in ***Vishwas Footwear Company Limited Vs the District Collector, Kancheepuram*** recognizes that the Revenue Divisional Officer has the jurisdiction to decide *prima facie* entitlement of a person to a patta. Therefore, it cannot be said that the Revenue Divisional Officer *ex facie* lacks jurisdiction. Once it is concluded that the Revenue Divisional Officer does not *ex facie* lack jurisdiction, the Writ Court would not ordinarily interfere at the stage when parties have been called upon to attend an inquiry. It is a separate matter that the petitioner would have recourse in case the Revenue Divisional Officer exceeds his jurisdiction by deciding disputed questions of title.

6. Subject to the above observations, W.P.(MD).No.14480 of 2021 is disposed of by leaving it open to the petitioner to challenge the decision of the Revenue Divisional Officer in case such Revenue Divisional Officer exceeds his jurisdiction. The Revenue Divisional Officer is directed to take into account the observations in this order and conclude the inquiry within a period of three (3) months from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and to the private respondent herein. On account of the fact that the Revenue Divisional Officer has been directed to hear the second respondent before passing orders and because the merits of the matter have not been gone into, the Writ Petition is disposed of without notice to the private respondent. There will

be no order as to costs. Consequently, W.M.P.(MD).Nos.11419 and 11420 of 2021 are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

To

The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Usilampatti, Madurai District.

+1 CC to M/s.M.GANAGURUNATHAN, Advocate (SR-26555[F] dated 17/08/2021)

+1 CC to M/s.SPL GP (SR-26753[F] dated 19/08/2021)

W.P.(MD) No.14480 of 2021
17.08.2021

MMS(CO)
SB(25.08.2021) 3P 4C